



Reprinted
April 1, 2015

ENGROSSED HOUSE BILL No. 1287

DIGEST OF HB 1287 (Updated March 31, 2015 3:38 pm - DI 97)

Citations Affected: IC 4-21.5; IC 4-32.2; IC 23-15; IC 24-4.4; IC 24-4.5; IC 24-7; IC 24-8; IC 28-1; IC 28-5; IC 28-7; IC 28-8; IC 28-10; IC 35-45.

Synopsis: Financial institutions and trade regulation. Makes various changes to the laws concerning: (1) first lien mortgage lenders; (2) persons licensed under the Uniform Consumer Credit Code; (3) rental purchase agreements; (4) debt management companies; (5) financial institutions; (6) pawnbrokers; (7) money transmitters; and (8) check cashers. Repeals a provision providing an alternative regular reserve formula for certain credit unions. Makes conforming amendments.

Effective: July 1, 2015.

Burton, Moed, Riecken

(SENATE SPONSORS — HOLDMAN, WALKER, MRVAN)

January 13, 2015, read first time and referred to Committee on Financial Institutions.
January 29, 2015, amended, reported — Do Pass.
February 3, 2015, read second time, amended, ordered engrossed.
February 4, 2015, engrossed.
February 5, 2015, read third time, passed. Yeas 97, nays 0.

SENATE ACTION

February 24, 2015, read first time and referred to Committee on Insurance & Financial Institutions.
March 19, 2015, amended, reported favorably — Do Pass.
March 31, 2015, read second time, amended, ordered engrossed.

EH 1287—LS 7024/DI 101



Reprinted
April 1, 2015

First Regular Session of the 119th General Assembly (2015)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2014 Regular Session and 2014 Second Regular Technical Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1287

A BILL FOR AN ACT to amend the Indiana Code concerning financial institutions.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 4-21.5-3-6, AS AMENDED BY P.L.153-2011,
2 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2015]: Sec. 6. (a) Notice shall be given under this section
4 concerning the following:
5 (1) A safety order under IC 22-8-1.1.
6 (2) Any order that:
7 (A) imposes a sanction on a person or terminates a legal right,
8 duty, privilege, immunity, or other legal interest of a person;
9 (B) is not described in section 4 or 5 of this chapter or
10 IC 4-21.5-4; and
11 (C) by statute becomes effective without a proceeding under
12 this chapter if there is no request for a review of the order
13 within a specified period after the order is issued or served.
14 (3) A notice of program reimbursement or equivalent
15 determination or other notice regarding a hospital's

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reimbursement issued by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning regarding a hospital's year end cost settlement.

(4) A determination of audit findings or an equivalent determination by the office of Medicaid policy and planning or by a contractor of the office of Medicaid policy and planning arising from a Medicaid postpayment or concurrent audit of a hospital's Medicaid claims.

(5) A license **suspension or** revocation under:

(A) IC 24-4.4-2;

(B) IC 24-4.5-3;

(C) IC 28-1-29;

(D) IC 28-7-5;

(E) IC 28-8-4; or

(F) IC 28-8-5.

(6) An order issued by the:

(A) division of aging or the bureau of aging services; or

(B) division of disability and rehabilitative services or the bureau of developmental disabilities services;

against providers regulated by the division of aging or the bureau of developmental disabilities services and not licensed by the state department of health under IC 16-27 or IC 16-28.

(b) When an agency issues an order described by subsection (a), the agency shall give notice to the following persons:

(1) Each person to whom the order is specifically directed.

(2) Each person to whom a law requires notice to be given.

A person who is entitled to notice under this subsection is not a party to any proceeding resulting from the grant of a petition for review under section 7 of this chapter unless the person is designated as a party in the record of the proceeding.

(c) The notice must include the following:

(1) A brief description of the order.

(2) A brief explanation of the available procedures and the time limit for seeking administrative review of the order under section 7 of this chapter.

(3) Any other information required by law.

(d) An order described in subsection (a) is effective fifteen (15) days after the order is served, unless a statute other than this article specifies a different date or the agency specifies a later date in its order. This subsection does not preclude an agency from issuing, under IC 4-21.5-4, an emergency or other temporary order concerning the subject of an order described in subsection (a).



(e) If a petition for review of an order described in subsection (a) is filed within the period set by section 7 of this chapter and a petition for stay of effectiveness of the order is filed by a party or another person who has a pending petition for intervention in the proceeding, an administrative law judge shall, as soon as practicable, conduct a preliminary hearing to determine whether the order should be stayed in whole or in part. The burden of proof in the preliminary hearing is on the person seeking the stay. The administrative law judge may stay the order in whole or in part. The order concerning the stay may be issued after an order described in subsection (a) becomes effective. The resulting order concerning the stay shall be served on the parties and any person who has a pending petition for intervention in the proceeding. It must include a statement of the facts and law on which it is based.

SECTION 2. IC 4-32.2-1-1, AS AMENDED BY P.L.135-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies only to a qualified organization.

(b) This article applies only to the following approved gambling events conducted as fundraising activities by qualified organizations:

(1) Bingo events, charity game nights, door prize events, raffle events, festivals, and other gaming events approved by the commission.

(2) The sale of pull tabs, punchboards, and tip boards:

(A) at bingo events, charity game nights, door prize events, raffle events, and festivals conducted by qualified organizations; or

(B) at any time on the premises owned or leased by a qualified organization and regularly used for the activities of the qualified organization.

This article does not apply to any other sale of pull tabs, punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

(e) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; or

(2) is:



(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2.

SECTION 3. IC 23-15-8-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 3. (a) If the department of financial institutions determines that a business entity has violated IC 28-1-20-4, the department of financial institutions shall notify the secretary of state of the violation.

(b) The secretary of state shall commence a proceeding under this section to administratively dissolve a business entity if:

(1) the name of the business entity contains the word, **or a derivation of the word, "bank", "banc", or "banco", or "bankcor";** and

(2) the department of financial institutions determines that the business entity violates IC 28-1-20-4.

(c) If the secretary of state commences an administrative dissolution under subsection (b), the secretary of state shall serve the business entity with written notice of the determination under subsection (b)(2). The secretary of state shall, at the same time notice is sent to the business entity, provide a copy of the notice to the department of financial institutions.

(d) If a business entity that receives a notice under subsection (c) does not:

(1) correct the grounds for dissolution; or

(2) demonstrate to the reasonable satisfaction of the department of financial institutions that the grounds for dissolution do not exist;

at any time after sixty (60) days after service of the notice is perfected, the department of financial institutions shall notify the secretary of state in writing of the continuing violation. After receiving the written



notice from the department of financial institutions, the secretary of state shall administratively dissolve the business entity by signing a certificate of dissolution that recites the grounds for dissolution and the effective date of the dissolution. The secretary of state shall file the original certificate of dissolution and serve a copy of the certificate of dissolution on the business entity.

(e) A business entity administratively dissolved under this section may carry on only those activities necessary to wind up and liquidate the business entity's affairs.

SECTION 4. IC 23-15-8-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 5. Dissolution under this section is in addition to any penalties imposed upon the business entity **by under IC 28, including** IC 28-1-20-4(j).

SECTION 5. IC 23-15-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 11. Registered Office and Agent for Certain Indiana Domiciled Financial Institutions

Sec. 1. As used in this chapter, "eligible entity" has the meaning set forth in IC 28-1-22-1.5.

Sec. 2. (a) An eligible entity may file a notice concerning the eligible entity's:

- (1) registered office; and**
 - (2) registered agent;**
- as described in IC 28-1-22-1.5.**

(b) A notice filed by an eligible entity under subsection (a) must include the following information with respect to the eligible entity:

- (1) The address of a registered office in Indiana.**
- (2) The name of a registered agent, who must be:**
 - (A) an individual who resides in Indiana and whose business office is identical with the registered office identified under subdivision (1);**
 - (B) a domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office identified under subdivision (1); or**
 - (C) a foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana and whose business office is identical with the registered office identified under subdivision (1).**

(c) In addition to the information set forth in subsection (b), a



notice filed by an eligible entity under subsection (a) must include:

- (1) the written consent of the registered agent designated under subsection (b)(2) to the designation; or
- (2) a representation that the registered agent has consented to the designation.

Sec. 3. (a) An eligible entity that files a notice under section 2 of this chapter may change the eligible entity's registered office or registered agent by delivering to the secretary of state for filing a statement of change that includes the following:

- (1) The name of the eligible entity.
- (2) The address of the eligible entity's registered office at the time of filing.
- (3) If the registered office identified under subdivision (2) is to be changed, the address of the new registered office.
- (4) The name of the eligible entity's registered agent at the time of filing.
- (5) If the registered agent identified under subdivision (4) is to be changed, the name of the new registered agent, along with:
 - (A) the written consent of the new registered agent to the designation; or
 - (B) a representation that the new registered agent has consented to the designation.

The written consent described in clause (A) or the representation described in clause (B) may be incorporated into the statement of change filed under this section or filed along with the statement of change as an attachment.

- (6) A statement indicating that after the identified changes to the registered office or the registered agent are made, the address of the eligible entity's registered office and the business address of the eligible entity's registered agent will be identical.

(b) If the registered agent for an eligible entity changes the address of the registered agent's business office, the registered agent may change the address of the registered office for the eligible entity by:

- (1) notifying the eligible entity in writing of the change; and
- (2) signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that:
 - (A) complies with subsection (a); and
 - (B) states that the eligible entity has been notified of the change.



1 **Sec. 4. (a)** The registered agent for an eligible entity may resign
 2 the agency appointment by signing and delivering to the secretary
 3 of state for filing, as described in IC 23-1-18, a statement of
 4 resignation. The statement of resignation may include a statement
 5 that the registered office for the eligible entity is also discontinued.

6 **(b)** After filing the statement, the secretary of state shall mail
 7 one (1) copy to the eligible entity at the eligible entity's principal
 8 office, if known, and one (1) copy to the eligible entity's registered
 9 office, if the registered office is not discontinued.

10 **(c)** On the thirty-first day after the date on which a statement is
 11 filed under this section:

12 **(1)** the agency appointment is terminated; and

13 **(2)** the registered office for the eligible entity is discontinued
 14 if so provided in the statement of resignation.

15 **Sec. 5. (a)** The registered agent of an eligible entity is the eligible
 16 entity's agent for service of process, notice, or demand required or
 17 permitted by law to be served on the eligible entity.

18 **(b)** If an eligible entity has no registered agent or the eligible
 19 entity's registered agent cannot with reasonable diligence be
 20 served, the eligible entity may be served by registered or certified
 21 mail, return receipt requested, addressed to the secretary of the
 22 eligible entity or to another executive officer, as that term is used
 23 in Trial Rule 4.6(A)(1), at the eligible entity's principal office.
 24 Service is perfected under this subsection at the earliest of:

25 **(1)** the date the eligible entity receives the mail;

26 **(2)** the date shown on the return receipt, if signed on behalf of
 27 the eligible entity; or

28 **(3)** five (5) days after deposit in the United States mail, if
 29 mailed postpaid and correctly addressed.

30 **(c)** This section does not prescribe the only means, or necessarily
 31 the required means, of serving an eligible entity.

32 SECTION 6. IC 24-4.4-1-102, AS AMENDED BY P.L.137-2014,
 33 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 34 JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed
 35 and applied to promote its underlying purposes and policies.

36 **(2)** The underlying purposes and policies of this article are:

37 **(a)** to permit and encourage the development of fair and
 38 economically sound first lien mortgage lending practices; and

39 **(b)** to conform the regulation of first lien mortgage lending
 40 practices to applicable state and federal laws, rules, regulations,
 41 policies, and guidance.

42 **(3)** A reference to a requirement imposed by this article includes



reference to a related rule of the department adopted under this article.

(4) A reference to a federal law in this article is a reference to the law as in effect December 31, ~~2013~~: **2014**.

SECTION 7. IC 24-4.4-1-202.5, AS ADDED BY P.L.35-2010, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 202.5. (1) If a person licensed or required to be licensed under this article also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:

- (a) IC 23-2-5-9.
- (b) IC 23-2-5-9.1.
- (c) IC 23-2-5-15.
- (d) IC 23-2-5-16.
- (e) IC 23-2-5-17.
- (f) IC 23-2-5-18.
- (g) IC 23-2-5-18.5.
- (h) IC 23-2-5-20.
- (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
- (j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under this article are subject to examination by the department and to the examination fees described in ~~IC 24-4.4-2-402(7)(c)~~: **IC 24-4.4-2-402(8)(c)**. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 8. IC 24-4.4-2-404, AS AMENDED BY P.L.27-2012, SECTION 10, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 404. (1) The department may issue to a person licensed as a creditor to engage in first lien mortgage transactions an order to show cause why the person's license should not be revoked or suspended for a period determined by the department.

(2) An order issued under subsection (1) must:

- (a) include:
 - (i) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;
 - (ii) a description of the action contemplated by the department;
 - and
 - (iii) a statement of the facts or conduct supporting the issuance of the order; and



(b) be accompanied by a notice stating that the licensee is entitled to:

- (i) a reasonable opportunity to be heard; and
- (ii) show the licensee's compliance with all lawful requirements for retention of the license; at the meeting described in subdivision (a)(i).

(3) After the meeting described in subsection (2)(a)(i), the department may revoke or suspend the license if the department finds that:

- (a) the licensee has repeatedly and willfully violated:
 - (i) this article or any **applicable** rule, order, or guidance document adopted or issued by the department; or
 - (ii) any other state or federal law, regulation, or rule applicable to first lien mortgage transactions;
- (b) the licensee does not meet the licensing qualifications contained in section 402 of this chapter;
- (c) the licensee obtained the license for the benefit of, or on behalf of, another person;
- (d) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the department; or
- (e) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(4) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

- (a) the revocation or suspension;
- (b) if a suspension has been ordered, the duration of the suspension;
- (c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- (d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license as a creditor to engage in first lien mortgage transactions may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this article.



(6) If the director determines it to be in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 9. IC 24-4.4-3-104, AS AMENDED BY P.L.216-2013, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 104. (1) In administering this article and in order to determine whether the provisions of this article are being complied with by persons engaging in acts subject to this article, the department may examine the records of persons and may make investigations of persons as may be necessary to determine compliance. Records subject to examination under this section include the following:

- (a) Training, operating, and policy manuals.
- (b) Minutes of:
 - (i) management meetings; and
 - (ii) other meetings.
- (c) Financial records, credit files, and data bases.
- (d) Other records that the department determines are necessary to perform its investigation or examination.

The department may also administer oaths or affirmations, subpoena witnesses, and compel the attendance of witnesses, including officers, principals, mortgage loan originators, employees, independent contractors, agents, and customers of licensees, and other individuals or persons subject to this article. The department may also adduce evidence and require the production of any matter that is relevant to an investigation. The department shall determine the sufficiency of the records maintained and whether the person has made the required information reasonably available. The records concerning any transaction subject to this article shall be retained for two (2) years after the making of the final entry relating to the first lien mortgage transaction, but in the case of a revolving first lien mortgage transaction the two (2) year period is measured from the date of each entry.

(2) The department's examination and investigatory authority under this article includes the following:

- (a) The authority to require a creditor to refund overcharges



1 resulting from the creditor's noncompliance with the terms of a
2 first lien mortgage transaction.

3 (b) The authority to require a creditor to comply with the penalty
4 provisions set forth in IC 24-4.4-2-201.

5 (c) The authority to investigate complaints filed with the
6 department by debtors.

7 (3) The department shall be given free access to the records
8 wherever the records are located. In making any examination or
9 investigation authorized by this article, the director may control access
10 to any documents and records of the licensee or person under
11 examination or investigation. The director may take possession of the
12 documents and records or place a person in exclusive charge of the
13 documents and records in the place where the documents are usually
14 kept. During the period of control, a licensee or person may not remove
15 or attempt to remove any of the documents and records except under
16 a court order or with the consent of the director. Unless the director has
17 reasonable grounds to believe the documents or records of the licensee
18 or person have been, or are, at risk of being altered or destroyed for
19 purposes of concealing a violation of this article, the licensee or person
20 shall have access to the documents or records as necessary to conduct
21 the licensee's or person's ordinary business affairs. If the person's
22 records are located outside Indiana, the records shall be made available
23 to the department at a convenient location within Indiana, or the person
24 shall pay the reasonable and necessary expenses for the department or
25 the department's representative to examine the records where they are
26 maintained. The department may designate comparable officials of the
27 state in which the records are located to inspect the records on behalf
28 of the department.

29 (4) Upon a person's failure without lawful excuse to obey a
30 subpoena or to give testimony and upon reasonable notice by the
31 department to all affected persons, the department may apply to any
32 civil court with jurisdiction for an order compelling compliance.

33 (5) The department shall not make public:

34 (a) the name or identity of a person whose acts or conduct the
35 department investigates under this section; or

36 (b) the facts discovered in the investigation.

37 However, this subsection does not apply to civil actions or enforcement
38 proceedings under this article.

39 (6) To discover violations of this article or to secure information
40 necessary for the enforcement of this article, the department may
41 investigate any:

42 (a) licensee; or



- (b) person that the department suspects to be operating:
- (i) without a license, when a license is required under this article; or
 - (ii) otherwise in violation of this article.

The department has all investigatory and enforcement authority under this article that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person being assessed the costs receives a notice from the department of the costs assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(7) If a creditor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the creditor and be subject to the department's routine examination procedures, the person that provides the service to the creditor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

- (a) discontinue receiving one (1) or more services from the person; or
- (b) otherwise cease conducting business with the person.

SECTION 10. IC 24-4.5-1-102, AS AMENDED BY P.L.137-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) This article shall be liberally construed and applied to promote its underlying purposes and policies.

(2) The underlying purposes and policies of this article are:

- (a) to simplify, clarify, and modernize the law governing retail installment sales, consumer credit, small loans, and usury;
- (b) to provide rate ceilings to assure an adequate supply of credit to consumers;
- (c) to further consumer understanding of the terms of credit transactions and to foster competition among suppliers of consumer credit so that consumers may obtain credit at



1 reasonable cost;

2 (d) to protect consumer buyers, lessees, and borrowers against
3 unfair practices by some suppliers of consumer credit, having due
4 regard for the interests of legitimate and scrupulous creditors;

5 (e) to permit and encourage the development of fair and
6 economically sound consumer credit practices;

7 (f) to conform the regulation of consumer credit transactions to
8 the policies of the Federal Consumer Credit Protection Act and to
9 applicable state and federal laws, rules, regulations, policies, and
10 guidance; and

11 (g) to make uniform the law, including administrative rules
12 among the various jurisdictions.

13 (3) A reference to a requirement imposed by this article includes
14 reference to a related rule or guidance of the department adopted
15 pursuant to this article.

16 (4) A reference to a federal law in this article is a reference to the
17 law as in effect December 31, ~~2013~~: **2014**.

18 (5) This article applies to a transaction if the director determines
19 that the transaction:

20 (a) is in substance a disguised consumer credit transaction; or

21 (b) involves the application of subterfuge for the purpose of
22 avoiding this article.

23 A determination by the director under this paragraph must be in writing
24 and shall be delivered to all parties to the transaction. IC 4-21.5-3
25 applies to a determination made under this paragraph.

26 (6) The authority of this article remains in effect, whether a licensee,
27 an individual, or a person subject to this article acts or claims to act
28 under any licensing or registration law of this state, or claims to act
29 without such authority.

30 (7) A violation of a state or federal law, regulation, or rule
31 applicable to consumer credit transactions is a violation of this article.

32 (8) The department may enforce penalty provisions set forth in 15
33 U.S.C. 1640 for violations of disclosure requirements applicable to
34 mortgage transactions.

35 SECTION 11. IC 24-4.5-1-202, AS AMENDED BY P.L.27-2012,
36 SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
37 JULY 1, 2015]: Sec. 202. (a) As used in this section, "balloon
38 payment", with respect to a mortgage transaction, means any payment
39 that:

40 (1) the creditor requires the debtor to make at any time during the
41 term of the mortgage;

42 (2) represents the entire amount of the outstanding balance with



1 respect to the mortgage; and

2 (3) the entire amount of which is due as of a specified date or at
3 the end of a specified period;

4 if the aggregate amount of the minimum periodic payments required
5 under the mortgage would not fully amortize the outstanding balance
6 by the specified date or at the end of the specified period. The term
7 does not include a payment required by a creditor under a due-on-sale
8 clause (as defined in 12 U.S.C. 1701j-3(a)) or a payment required by
9 a creditor under a provision in the mortgage that permits the creditor
10 to accelerate the debt upon the debtor's default or failure to abide by the
11 material terms of the mortgage.

12 (b) This article does not apply to the following:

13 (1) Extensions of credit to government or governmental agencies
14 or instrumentalities.

15 (2) The sale of insurance by an insurer, except as otherwise
16 provided in the chapter on insurance (IC 24-4.5-4).

17 (3) Transactions under public utility, municipal utility, or
18 common carrier tariffs if a subdivision or agency of this state or
19 of the United States regulates the charges for the services
20 involved, the charges for delayed payment, and any discount
21 allowed for early payment.

22 (4) The rates and charges and the disclosure of rates and charges
23 of a licensed pawnbroker established in accordance with a statute
24 or ordinance concerning these matters.

25 (5) A sale of goods, services, or an interest in land in which the
26 goods, services, or interest in land are purchased primarily for a
27 purpose other than a personal, family, or household purpose.

28 (6) A loan in which the debt is incurred primarily for a purpose
29 other than a personal, family, or household purpose.

30 (7) An extension of credit primarily for a business, a commercial,
31 or an agricultural purpose.

32 (8) An installment agreement for the purchase of home fuels in
33 which a finance charge is not imposed.

34 (9) Loans made, insured, or guaranteed under a program
35 authorized by Title IV of the Higher Education Act of 1965 (20
36 U.S.C. 1070 et seq.).

37 (10) Transactions in securities or commodities accounts in which
38 credit is extended by a broker-dealer registered with the Securities
39 and Exchange Commission or the Commodity Futures Trading
40 Commission.

41 (11) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**,
42 **IC 24-4.5-3-503.3**, **IC 24-4.5-3-505(4)**, and **IC 24-4.5-3-505(5)**,



1 a loan made:

2 (A) in compliance with the requirements of; and

3 (B) by a community development corporation (as defined in
4 IC 4-4-28-2) acting as a subrecipient of funds from;

5 the Indiana housing and community development authority
6 established by IC 5-20-1-3.

7 (12) Except for ~~IC 24-4.5-3-502.1(2)~~, **IC 24-4.5-3-502.1(4)**,
8 IC 24-4.5-3-503.3, IC 24-4.5-3-505(4), and IC 24-4.5-3-505(5),
9 a subordinate lien mortgage transaction made by an entity that
10 exclusively uses funds provided by the United States Department
11 of Housing and Urban Development under Title 1 of the Housing
12 and Community Development Act of 1974, Public Law 93-383,
13 as amended (42 U.S.C. 5301 et seq.).

14 (13) The United States, any state or local government, or any
15 agency or instrumentality of any governmental entity, including
16 United States government sponsored enterprises.

17 (14) A bona fide nonprofit organization not operating in a
18 commercial context, as determined by the director, if the
19 following criteria are satisfied:

20 (A) Subject to clause (B), the organization originates only one
21 (1) or both of the following types of mortgage transactions:

22 (i) Zero (0) interest first lien mortgage transactions.

23 (ii) Zero (0) interest subordinate lien mortgage transactions.

24 (B) The organization does not require, under the terms of the
25 mortgage or otherwise, balloon payments with respect to the
26 mortgage transactions described in clause (A).

27 (C) The organization is exempt from federal income taxation
28 under Section 501(c)(3) of the Internal Revenue Code.

29 (D) The organization's primary purpose is to serve the public
30 by helping low income individuals and families build, repair,
31 and purchase housing.

32 (E) The organization uses only:

33 (i) unpaid volunteers; or

34 (ii) employees whose compensation is not based on the
35 number or size of any mortgage transactions that the
36 employees originate;

37 to originate the mortgage transactions described in clause (A).

38 (F) The organization does not charge loan origination fees in
39 connection with the mortgage transactions described in clause
40 (A).

41 (15) A bona fide nonprofit organization (as defined in section
42 ~~301.5(45)~~ **301.5** of this chapter) if the following criteria are



1 satisfied:

2 (a) (A) For each calendar year that the organization seeks the
3 exemption provided by this subdivision, the organization
4 certifies, not later than December 31 of the preceding calendar
5 year and on a form prescribed by the director and accompanied
6 by such documentation as required by the director, that the
7 organization is a bona fide nonprofit organization (as defined
8 in section 301.5(45) of this chapter).

9 (b) (B) The director determines that the organization originates
10 only mortgage transactions that are favorable to the debtor. For
11 purposes of this clause, a mortgage transaction is favorable to
12 the debtor if the director determines that the terms of the
13 mortgage transaction are consistent with terms of mortgage
14 transactions made in a public or charitable context, rather than
15 in a commercial context.

16 SECTION 12. IC 24-4.5-2-204 IS AMENDED TO READ AS
17 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges

18 — (1) With respect to a precomputed consumer credit sale,
19 refinancing, or consolidation, the parties before or after default may
20 agree in writing to a deferral of all or part of one (1) or more unpaid
21 instalments, and the seller may make and collect a charge not
22 exceeding **the lesser of thirty-six percent (36%) per year or** the rate
23 previously stated to the buyer pursuant to the provisions on disclosure
24 (Part 3) applied to the amount or amounts deferred for the period of
25 deferral calculated without regard to differences in lengths of months,
26 but proportionately for a part of a month, counting each day as
27 one-thirtieth (1/30) of a month. A deferral charge may be collected at
28 the time it is assessed or at any time thereafter.

29 (2) The seller, in addition to the deferral charge, may make
30 appropriate additional charges (~~24-4.5-2-202~~), **(IC 24-4.5-2-202)**, and
31 the amount of these charges which is not paid in cash may be added to
32 the amount deferred for the purpose of calculating the deferral charge.

33 (3) The parties may agree in writing at the time of a precomputed
34 consumer credit sale, refinancing, or consolidation that if an instalment
35 is not paid within ten (10) days after its due date, the seller may
36 unilaterally grant a deferral and make charges as provided in this
37 section. No deferral charge may be made for a period after the date that
38 the seller elects to accelerate the maturity of the agreement.

39 (4) A delinquency charge made by the seller on an instalment may
40 not be retained if a deferral charge is made pursuant to this section with
41 respect to the period of delinquency.

42 SECTION 13. IC 24-4.5-2-407, AS AMENDED BY P.L.137-2014,



SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 407. (1) With respect to a consumer credit sale, a seller may take a security interest in the property sold. In addition, a seller may take a security interest in goods upon which services are performed or in which goods sold are installed or to which they are annexed, or in land to which the goods are affixed or which is maintained, repaired or improved as a result of the sale of the goods or services, if, in the case of a subordinate lien mortgage transaction, the debt secured is four thousand dollars (\$4,000) or more, or, in the case of a security interest in goods the debt secured is three hundred dollars (\$300) or more. Except as provided with respect to cross-collateral (IC 24-4.5-2-408), a seller may not otherwise take a security interest in property of the buyer to secure the debt arising from a consumer credit sale.

(2) With respect to a consumer lease, a lessor may not take a security interest in property of the lessee to secure the debt arising from the lease.

(3) A security interest taken in violation of this section is void.

(4) The amounts of four thousand dollars (\$4,000) and three hundred dollars (\$300) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used ~~under this subsection~~ **with respect to the amount of:**

(a) three hundred dollars (\$300) is the Index for October 1992;
and

(b) four thousand dollars (\$4,000) is the Index for October 2012.

SECTION 14. IC 24-4.5-3-204 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 204. Deferral Charges — (1) With respect to a precomputed consumer loan, refinancing, or consolidation, the parties before or after default may agree in writing to a deferral of all or part of one (1) or more unpaid instalments, and the lender may make and collect a charge not exceeding **the lesser of thirty-six percent (36%) per year or** the rate previously stated to the debtor pursuant to the provisions on disclosure (Part 3) applied to the amount or amounts deferred for the period of deferral calculated without regard to difference in the lengths of months, but proportionally for a part of a month, counting each day as one-thirtieth (1/30) of a month. A deferral charge may be collected at the time it is assessed or at any time thereafter.

(2) The lender, in addition to the deferral charge, may make appropriate additional charges (~~24-4.5-3-202~~), **(IC 24-4.5-3-202)**, and



the amount of these charges which is not paid in cash may be added to the amount deferred for the purpose of calculating the deferral charge.

(3) The parties may agree in writing at the time of a precomputed consumer loan, refinancing, or consolidation that if an instalment is not paid within ten (10) days after its due date, the lender may unilaterally grant a deferral and make charges as provided in this section. No deferral charge may be made for a period after the date that the lender elects to accelerate the maturity of the agreement.

(4) A delinquency charge made by the lender on an instalment may not be retained if a deferral charge is made pursuant to this section with respect to the period of delinquency.

SECTION 15. IC 24-4.5-3-501.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 501.5. (1) If a person licensed or required to be licensed under section 502.1 of this chapter also engages in the loan brokerage business, the person's loan brokerage business is subject to the following sections of the Indiana Code and any rules adopted to implement these sections:**

- (a) IC 23-2-5-9.
- (b) IC 23-2-5-9.1.
- (c) IC 23-2-5-15.
- (d) IC 23-2-5-16.
- (e) IC 23-2-5-17.
- (f) IC 23-2-5-18.
- (g) IC 23-2-5-18.5.
- (h) IC 23-2-5-20.
- (i) IC 23-2-5-23, except for IC 23-2-5-23(2)(B).
- (j) IC 23-2-5-24.

(2) Loan broker business transactions engaged in by persons licensed or required to be licensed under section 502.1 of this chapter are subject to examination by the department and to the examination fees described in section 503(8)(b) of this chapter. The department may cooperate with the securities division of the office of the secretary of state in the department's examination of loan broker business transactions and may use the securities division's examiners to conduct examinations.

SECTION 16. IC 24-4.5-3-502, AS AMENDED BY P.L.35-2010, SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 502. (1) A person that is a:**

- (a) depository institution;
- (b) subsidiary that is owned and controlled by a depository institution **and regulated by a federal banking agency; or**



(c) credit union service organization;
 may engage **in Indiana** in the making of consumer loans **(including small loans that are subject to IC 24-4.5-7)** that are not mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 may engage in:

(a) taking assignments of consumer loans ~~in Indiana~~; **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions**; and

(b) undertaking **the** direct collection of payments from or **the** enforcement of rights ~~in Indiana~~ against debtors arising from consumer loans **(including small loans that are subject to IC 24-4.5-7) that are not mortgage transactions**;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license under this ~~article~~ **chapter** in order to regularly engage in Indiana in the following actions with respect to consumer loans that are not **small loans (as defined in IC 24-4.5-7-104)** or mortgage transactions:

(a) The making of consumer loans.

(b) Taking assignments of consumer loans.

(c) Undertaking **the** direct collection of payments from or **the** enforcement of rights against debtors arising from consumer loans.

(4) A separate license under this ~~article~~ **chapter** is required for each legal entity that engages in Indiana in any activity described in subsection (3). However, a separate license under this ~~article~~ **chapter** is not required for each branch of a legal entity licensed under this ~~article~~ **chapter** to perform an activity described in subsection (3).

(5) **Except as otherwise provided in subsections (1) and (2), a separate license under IC 24-4.5-7 is required in order to regularly engage in Indiana in the following actions with respect to small loans (as defined in IC 24-4.5-7-104):**

(a) **The making of small loans (as defined in IC 24-4.5-7-104).**

(b) **Taking assignments of small loans (as defined in IC 24-4.5-7-104).**

(c) **Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans (as defined in IC 24-4.5-7-104).**

A person that seeks licensure under IC 24-4.5-7 in order to regularly engage in Indiana in the actions set forth in this subsection shall apply to the department for that license in the form and manner prescribed by the department, and is subject to



the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than small loans or mortgage transactions) under this section.

SECTION 17. IC 24-4.5-3-502.1, AS AMENDED BY P.L.103-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 502.1. ~~(1)~~ Unless a person:

- (a) is a depository institution;
- (b) is a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency;
- (c) is an institution regulated by the Farm Credit Administration; or
- (d) has first obtained, and subsequently retains, a license from the department under this article;

the person shall not regularly engage in Indiana as a creditor in subordinate lien mortgage transactions; take assignments in Indiana of subordinate lien mortgage transactions; or undertake in the direct collection of payments from or enforcement of rights against debtors in Indiana arising from subordinate lien mortgage transactions:

(1) A person that is a:

- (a) depository institution;
- (b) subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or
- (c) credit union service organization;

may engage in Indiana in the making of subordinate lien mortgage transactions without obtaining a license under this article.

(2) A collection agency licensed under IC 25-11-1 or an institution regulated by the Farm Credit Administration may engage in:

- (a) taking assignments of subordinate lien mortgage transactions; and
- (b) undertaking the direct collection of payments from or the enforcement of rights against debtors arising from subordinate lien mortgage transactions;

in Indiana without obtaining a license under this article.

(3) A person that does not qualify under subsection (1) or (2) shall acquire and retain a license relating to subordinate lien mortgage transactions under this chapter in order to regularly engage in Indiana in the following actions with respect to subordinate lien mortgage transactions:

- (a) The making of subordinate lien mortgage loans.
- (b) Taking assignments of subordinate lien mortgage loans.
- (c) Undertaking the direct collection of payments from or the



enforcement of rights against debtors arising from subordinate lien mortgage loans.

~~(2)~~ (4) Each:

(a) creditor licensed by the department under this ~~article~~ **chapter to engage in subordinate lien mortgage transactions**; and

(b) entity that is exempt from licensing under this article or under IC 24-4.4-1-202(b)(6)(a) and that:

(i) employs a licensed mortgage loan originator; or

(ii) sponsors under an exclusive written agreement, as permitted by IC 24-4.4-1-202(b)(6)(a), a licensed mortgage loan originator as an independent agent;

shall register with and maintain a valid unique identifier issued by the NMLSR. Each licensed mortgage loan originator must be employed by, or sponsored under an exclusive written agreement (as permitted by IC 24-4.4-1-202(b)(6)(a)) and as an independent agent, and associated with, a ~~licensed~~ creditor **licensed under this chapter to engage in subordinate lien mortgage transactions** or an exempt entity described under subdivision (b) in the NMLSR in order to originate loans.

~~(3)~~ (5) Applicants for a license **to engage in subordinate lien mortgage transactions** must apply for a license under this chapter in a form prescribed by the director. Each form:

(a) must contain content as set forth by rule, instruction, or procedure of the director; and

(b) may be changed or updated as necessary by the director to carry out the purposes of this article.

~~(4)~~ (6) To fulfill the purposes of this article, the director may establish relationships or contracts with the NMLSR or other entities designated by the NMLSR to:

(a) collect and maintain records; and

(b) process transaction fees or other fees;

related to licensees or other persons subject to this article.

~~(5)~~ (7) For the purpose of participating in the NMLSR, the director or the department may:

(a) waive or modify, in whole or in part, by rule, regulation, or order, any or all of the requirements of this article; and

(b) establish new requirements as reasonably necessary to participate in the NMLSR.

SECTION 18. IC 24-4.5-3-504, AS AMENDED BY P.L.27-2012, SECTION 22, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 504. (1) The department may issue to a person licensed to:



- 1 (a) make consumer loans; or
- 2 (b) engage in consumer credit sales that are mortgage
- 3 transactions;
- 4 an order to show cause why the license should not be revoked or
- 5 suspended for a period determined by the department.
- 6 (2) An order issued under subsection (1) must:
- 7 (a) include:
 - 8 (i) a statement of the place, date, and time for a meeting with
 - 9 the department, which date may not be less than ten (10) days
 - 10 from the date of the order;
 - 11 (ii) a description of the action contemplated by the department;
 - 12 and
 - 13 (iii) a statement of the facts or conduct supporting the issuance
 - 14 of the order; and
- 15 (b) be accompanied by a notice stating that the licensee is entitled
- 16 to:
 - 17 (i) a reasonable opportunity to be heard; and
 - 18 (ii) show the licensee's compliance with all lawful
 - 19 requirements for retention of the license;
 - 20 at the meeting described in subdivision (a)(i).
- 21 (3) After the meeting described in subsection (2)(a)(i), the
- 22 department may revoke or suspend the license if the department finds
- 23 that:
 - 24 (a) the licensee has repeatedly and willfully violated:
 - 25 (i) this article or any **applicable** rule, order, or guidance
 - 26 document adopted or issued by the department; or
 - 27 (ii) any other state or federal laws, rules, or regulations
 - 28 applicable to consumer credit transactions;
 - 29 (b) the licensee does not meet the licensing qualifications under
 - 30 section 503 of this chapter;
 - 31 (c) the licensee obtained the license for the benefit of, or on
 - 32 behalf of, a person who does not qualify for the license;
 - 33 (d) the licensee knowingly or intentionally made material
 - 34 misrepresentations to, or concealed material information from, the
 - 35 department; or
 - 36 (e) facts or conditions exist that, had they existed at the time the
 - 37 licensee applied for the license, would have been grounds for the
 - 38 department to deny the issuance of the license.
- 39 (4) Whenever the department revokes or suspends a license, the
- 40 department shall enter an order to that effect and forthwith notify the
- 41 licensee of:
 - 42 (a) the revocation or suspension;



(b) if a suspension has been ordered, the duration of the suspension;

(c) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(d) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(5) Any person holding a license to make consumer loans may relinquish the license by notifying the department in writing of its relinquishment, but this relinquishment does not affect the person's liability for acts previously committed and coming within the scope of this article.

(6) If the director determines it is in the public interest, the director may pursue revocation of a license of a licensee that has relinquished the license under subsection (5).

(7) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any preexisting lawful contract.

(8) If the director has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 19. IC 24-4.5-3-510, AS AMENDED BY P.L.137-2014, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 510. Restrictions on Interest in Land as Security — (1) With respect to a supervised loan in which the principal is four thousand dollars (\$4,000) or less, a lender may not contract for an interest in land as security. A security interest taken in violation of this section is void.

(2) The amount of four thousand dollars (\$4,000) in subsection (1) is subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used under this subsection is the Index for October ~~1992~~: **2012**.

SECTION 20. IC 24-4.5-3-511, AS AMENDED BY P.L.137-2014, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 511. Regular Schedule of Payments; Maximum Loan Term — (1) Supervised loans not made pursuant to a revolving loan account and in which the principal is four thousand dollars (\$4,000) or less are payable in a single instalment or shall be scheduled



to be payable in substantially equal instalments that are payable at equal periodic intervals, except to the extent that the schedule of payments is adjusted to the seasonal or irregular income of the debtor, and:

(a) over a period of not more than thirty-seven (37) months if the principal is more than three hundred dollars (\$300), or

(b) over a period of not more than twenty-five (25) months if the principal is three hundred dollars (\$300) or less.

(2) The amounts of three hundred dollars (\$300) and four thousand dollars (\$4,000) in subsection (1) are subject to change pursuant to the provisions on adjustment of dollar amounts (IC 24-4.5-1-106). However, notwithstanding IC 24-4.5-1-106(1), the Reference Base Index to be used ~~under this subsection~~ **with respect to the amount of:**

(1) three hundred dollars (\$300) is the Index for October 1992; and

(2) four thousand dollars (\$4,000) is the Index for October 2012.

SECTION 21. IC 24-4.5-5-103, AS AMENDED BY P.L.137-2014, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 103. Restrictions on Deficiency Judgments in Consumer Credit Sales — (1) This section applies to a consumer credit sale of goods or services.

(2) If the seller repossesses or voluntarily accepts surrender of goods which were the subject of the sale and in which the seller has a security interest, and the cash price of the goods repossessed or surrendered was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale of the goods, and the seller is not obligated to resell the collateral.

(3) If the seller repossesses or voluntarily accepts surrender of goods which were not the subject of the sale but in which the seller has a security interest to secure a debt arising from a sale of goods or services or a combined sale of goods and services and the cash price of the sale was four thousand dollars (\$4,000) or less, the buyer is not personally liable to the seller for the unpaid balance of the debt arising from the sale.

(4) For the purpose of determining the unpaid balance of consolidated debts or debts pursuant to revolving charge accounts, the allocation of payments to a debt shall be determined in the same manner as provided for determining the amount of debt secured by various security interests (IC 24-4.5-2-409).

(5) The buyer may be liable in damages to the seller if the buyer has wrongfully damaged the collateral or if, after default and demand, the



1 buyer has wrongfully failed to make the collateral available to the
2 seller.

3 (6) If the seller elects to bring an action against the buyer for a debt
4 arising from a consumer credit sale of goods or services, and under this
5 section the seller would not be entitled to a deficiency judgment if the
6 seller repossessed the collateral, and the seller obtains a judgment:

7 (a) the seller may not repossess the collateral; and

8 (b) the collateral is not subject to levy or sale on execution or
9 similar proceedings pursuant to the judgment.

10 (7) The amounts of four thousand dollars (\$4,000) in subsections (2)
11 and (3) are subject to change pursuant to the provisions on adjustment
12 of dollar amounts (IC 24-4.5-1-106). However, notwithstanding
13 IC 24-4.5-1-106(1), the Reference Base Index to be used under this
14 subsection is the Index for October ~~1992~~ **2012**.

15 SECTION 22. IC 24-4.5-6-106, AS AMENDED BY P.L.216-2013,
16 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 JULY 1, 2015]: Sec. 106. (1) In administering this article and in order
18 to determine whether the provisions of this article are being complied
19 with by persons engaging in acts subject to this article, the department
20 may examine the records of persons and may make investigations of
21 persons as may be necessary to determine compliance. Records subject
22 to examination under this section include the following:

23 (a) Training, operating, and policy manuals.

24 (b) Minutes of:

25 (i) management meetings; and

26 (ii) other meetings.

27 (c) Other records that the department determines are necessary to
28 perform its investigation or examination.

29 The department may also administer oaths or affirmations, subpoena
30 witnesses, and compel the attendance of witnesses, including directors,
31 executive officers, managers, principals, mortgage loan originators,
32 employees, independent contractors, agents, and customers of the
33 licensee, individual, or person subject to this article. The department
34 may also adduce evidence, and require the production of any matter
35 which is relevant to the investigation. The department shall determine
36 the sufficiency of the records maintained and whether the person has
37 made the required information reasonably available. The records
38 pertaining to any transaction subject to this article shall be retained for
39 two (2) years after making the final entry relating to the consumer
40 credit transaction, but in the case of a revolving loan account or
41 revolving charge account, the two (2) years is measured from the date
42 of each entry.



(2) The department's examination and investigatory authority under this article includes the following:

(a) The authority to require a creditor to refund overcharges resulting from the creditor's noncompliance with the terms of consumer credit sales, consumer leases, or consumer loans.

(b) The authority to require a creditor to comply with the prepayment penalty provisions set forth in IC 24-4.5-3-209.

(c) The authority to investigate complaints filed with the department by debtors.

(3) If the department:

(a) investigates; or

(b) examines the books and records of;

a person that is subject to IC 24-4.5-6-201, IC 24-4.5-6-202, and IC 24-4.5-6-203, the person shall pay all reasonably incurred costs of the investigation or examination in accordance with the fee schedule adopted by the department under IC 28-11-3-5. However, the person is liable for the costs of an investigation or examination under this subsection only to the extent that the costs exceed the amount of the filing fees paid most recently under IC 24-4.5-6-203. Any costs required to be paid under this ~~subsection~~ **section** shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.

(4) The department shall be given free access to the records wherever located. In making any examination or investigation authorized by this article, the director may control access to any documents and records of the licensee or person under examination or investigation. The director may take possession of the documents and records or place a person in exclusive charge of the documents and records in the place where the documents are usually kept. During the period of control, the licensee or person may not remove or attempt to remove any of the documents and records except under a court order or with the consent of the director. Unless the director has reasonable grounds to believe the documents or records of the licensee or person have been, or are, at risk of being altered or destroyed for purposes of concealing a violation of this article, the licensee or person being examined or investigated is entitled to access to the documents or records as necessary to conduct the licensee's or person's ordinary business affairs. If the person's records are located outside Indiana, the records shall be made available to the department at a convenient



1 location within Indiana, or the person shall pay the reasonable and
 2 necessary expenses for the department or its representative to examine
 3 them where they are maintained. The department may designate
 4 comparable officials of the state in which the records are located to
 5 inspect them on behalf of the department.

6 (5) Upon a person's failure without lawful excuse to obey a
 7 subpoena or to give testimony and upon reasonable notice to all
 8 affected persons, the department may apply to any civil court with
 9 jurisdiction for an order compelling compliance.

10 (6) The department shall not make public the name or identity of a
 11 person whose acts or conduct the department investigates pursuant to
 12 this section or the facts disclosed in the investigation, but this
 13 subsection does not apply to disclosures in actions or enforcement
 14 proceedings pursuant to this article.

15 (7) To discover violations of this article or to secure information
 16 necessary for the enforcement of this article, the department may
 17 investigate any:

18 (a) licensee or registrant; or

19 (b) person that the department suspects to be operating:

20 (i) without a license or registration, when a license or
 21 registration is required under this article; or

22 (ii) otherwise in violation of this article.

23 The department has all investigatory and enforcement authority under
 24 this article that the department has under IC 28-11 with respect to
 25 financial institutions. If the department conducts an investigation under
 26 this section, the licensee, registrant, or other person investigated shall
 27 pay all reasonably incurred costs of the investigation in accordance
 28 with the fee schedule adopted under IC 28-11-3-5. **Any costs required**
 29 **to be paid under this section shall be paid not later than sixty (60)**
 30 **days after the person receives a notice from the department of the**
 31 **costs being assessed. The department may impose a fee, in an**
 32 **amount fixed by the department under IC 28-11-3-5, for each day**
 33 **that the assessed costs are not paid, beginning on the first day after**
 34 **the sixty (60) day period described in this subsection.**

35 (8) If a creditor contracts with an outside vendor to provide a service
 36 that would otherwise be undertaken internally by the creditor and be
 37 subject to the department's routine examination procedures, the person
 38 that provides the service to the creditor shall, at the request of the
 39 director, submit to an examination by the department. If the director
 40 determines that an examination under this subsection is necessary or
 41 desirable, the examination may be made at the expense of the person
 42 to be examined. If the person to be examined under this subsection



refuses to permit the examination to be made, the director may order any creditor that is licensed under this article and that receives services from the person refusing the examination to:

- (a) discontinue receiving one (1) or more services from the person; or
- (b) otherwise cease conducting business with the person.

SECTION 23. IC 24-4.5-7-102, AS AMENDED BY P.L.137-2014, SECTION 17, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) Except as otherwise provided, all provisions of this article applying to consumer loans, including IC 24-4.5-3-502.2, apply to small loans, as defined in this chapter.

(2) Subject to subsection (7), a person may not regularly engage in Indiana in any of the following actions unless the department first issues to the person a license under this chapter:

- (a) The making of small loans.**
- (b) Taking assignments of small loans.**
- (c) Undertaking the direct collection of payments from or the enforcement of rights against debtors arising from small loans.**

(3) Subject to subsection (4), a person that seeks licensure under this chapter:

- (a) shall apply to the department for a license in the form and manner prescribed by the department; and**
- (b) is subject to the same licensure requirements and procedures as an applicant for a license to make consumer loans (other than mortgage transactions) under IC 24-4.5-3-502.**

(4) A person that seeks to make, take assignments of, or undertake the direct collection of payments from or the enforcement of rights against debtors arising from both:

- (a) small loans under this chapter; and**
- (b) consumer loans (other than mortgage transactions) that are not small loans;**

must obtain a separate license from the department for each type of loan, as described in IC 24-4.5-3-502(5).

(2) (5) This chapter applies to:

- (a) a lender or to any person who facilitates, enables, or acts as a conduit for any person who is or may be exempt from licensing under IC 24-4.5-3-502;**
- (b) a bank, savings association, credit union, or other state or federally regulated financial institution except those that are specifically exempt regarding limitations on interest rates and**



fees; or

(c) a person, if the department determines that a transaction is:

(i) in substance a disguised loan; or

(ii) the application of subterfuge for the purpose of avoiding this chapter.

(3) (6) A loan that:

(a) does not qualify as a small loan under section 104 of this chapter;

(b) is for a term shorter than that specified in section 401(1) of this chapter; or

(c) is made in violation of section 201, 401, 402, 404, or 410 of this chapter;

is subject to this article. The department may conform the finance charge for a loan described in this subsection to the limitations set forth in IC 24-4.5-3-508.

(7) Notwithstanding IC 24-4.5-1-301.5, for purposes of subsection (2), a person "regularly engages" in any of the activities described in subsection (2) with respect to a small loan if the person:

(a) performed any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year; or

(b) performs or will perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the current calendar year if the person did not perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year.

SECTION 24. IC 24-4.5-7-111, AS ADDED BY P.L.57-2006, SECTION 14, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 111. "Lender" means a person ~~licensed~~ **that acquires and retains a license issued** by the department of financial institutions under this chapter to engage in small loans.

SECTION 25. IC 24-4.5-7-401, AS AMENDED BY P.L.217-2007, SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 401. (1) A small loan may not be made for a term of less than fourteen (14) days.

(2) If five (5) consecutive small loans have been made to a borrower after the borrower's initial small loan, another small loan may not be made to that borrower within seven (7) days after the fifth consecutive small loan is paid in full. After the borrower's fifth consecutive small loan, the balance must be paid in full.

(3) Subject to subsection (4), whenever a borrower has entered into



1 an initial small loan followed by three (3) consecutive small loans, the
 2 lender shall offer the borrower the option to repay:

3 (a) the third consecutive small loan; and

4 (b) subject to subsection (2), any small loan entered into after the
 5 third consecutive small loan;

6 under an extended payment plan. At the time of execution of a small
 7 loan described in subdivision (a) or (b), the lender shall disclose to the
 8 borrower the extended payment plan option by providing the borrower
 9 a written description of the extended payment plan option in a separate
 10 disclosure document approved by the director.

11 (4) A lender shall offer an extended payment plan under subsection
 12 (3) under the following terms and conditions:

13 (a) A borrower shall be permitted to request an extended payment
 14 plan at any time during the term of a third or subsequent
 15 consecutive small loan if the borrower has not defaulted on the
 16 outstanding small loan.

17 (b) An extended payment plan must allow the outstanding small
 18 loan to be paid in at least four (4) equal installments over a period
 19 of not less than sixty (60) days.

20 **(c) An agreement for an extended payment plan may not**
 21 **require a borrower to pay any amount before the original**
 22 **maturity date of the outstanding small loan.**

23 ~~(c)~~ **(d)** The lender may not assess any fee or charge on a borrower
 24 for entering into an extended payment plan.

25 ~~(d)~~ **(e)** An agreement for an extended payment plan must be in
 26 writing and acknowledged by both the borrower and the lender.

27 ~~(e)~~ **(f)** A borrower may not enter into another small loan
 28 transaction while engaged in an extended payment plan.

29 **(g) A lender may not compel or require a borrower to pay off**
 30 **an outstanding small loan that is eligible for an extended**
 31 **payment plan and to subsequently enter into a new small loan**
 32 **with the lender if the borrower and lender have not entered**
 33 **into an extended payment plan with respect to the eligible**
 34 **outstanding small loan.**

35 (5) An agreement for an extended payment plan under subsection
 36 (3):

37 (a) shall be considered an extension of the outstanding small loan;
 38 and

39 (b) may not be considered a new loan.

40 SECTION 26. IC 24-7-5-11, AS AMENDED BY P.L.137-2014,
 41 SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 42 JULY 1, 2015]: Sec. 11. (a) In addition to the other charges permitted



by this chapter, **for a period during which the lessor relieves the lessee of liability under a liability waiver**, a lessor and a lessee may contract for a liability waiver fee in the following amounts:

(1) In the case of a rental purchase agreement with weekly or biweekly renewal dates, the liability waiver fee may not exceed the greater of:

- (A) ten percent (10%) of ~~a~~ **the** periodic lease payment ~~due;~~ **disclosed under IC 24-7-3-3(2);** or
- (B) two dollars (\$2).

(2) In the case of a rental purchase agreement with monthly renewal dates, the liability waiver fee may not exceed the greater of:

- (A) ten percent (10%) of ~~a~~ **the** periodic lease payment ~~due;~~ **disclosed under IC 24-7-3-3(2);** or
- (B) five dollars (\$5).

(b) The selling or offering for sale of a liability damage waiver under this section is subject to the following prohibitions and requirements:

(1) A lessor may not sell or offer to sell a liability damage waiver unless all restrictions, conditions, and exclusions are:

- (A) printed in the rental purchase agreement, or in a separate agreement, in 8 point type or larger; or
- (B) written in ink or typewritten in or on the face of the rental purchase agreement in a blank space provided therefor.

(2) The liability damage waiver may exclude only loss or damage to the property that is the subject of the rental purchase agreement caused by moisture, scratches, mysterious disappearance, vandalism, abandonment of the property, or any other damage intentionally caused by the lessee or that results from the lessee's willful or wanton misconduct.

(3) The liability damage waiver agreement must include a statement of the total charge for the liability damage waiver. The liability damage waiver agreement must display in 8 point boldface type the following:

"NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A LIABILITY DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE PROPERTY. BEFORE DECIDING WHETHER TO PURCHASE THE LIABILITY DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN HOMEOWNERS OR CASUALTY INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE



1 TO THE RENTAL PROPERTY, AND THE AMOUNT OF
 2 THE DEDUCTIBLE UNDER YOUR OWN INSURANCE
 3 COVERAGE. THE PURCHASE OF THIS LIABILITY
 4 DAMAGE WAIVER IS NOT MANDATORY AND MAY BE
 5 DECLINED."

6 (4) The restrictions, conditions, and exclusions of the liability
 7 damage waiver must be disclosed on the agreement or on a
 8 separate agreement, sheet, or handout given to the lessee before
 9 entering into the rental purchase agreement. The separate
 10 contract, sheet, or handout must be signed or otherwise
 11 acknowledged by the lessee as being received before entering into
 12 the rental purchase agreement.

13 (5) The lessor shall keep and maintain records as prescribed by
 14 the director of the department. The director of the department may
 15 inspect the records and determine whether the rates charged under
 16 this section are fair and reasonable.

17 SECTION 27. IC 24-7-7-2, AS AMENDED BY THE TECHNICAL
 18 CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS
 19 AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:
 20 Sec. 2. (a) A person subject to this article shall make the books and
 21 records of the person reasonably available for inspection by the
 22 department or the department's representative. At a minimum, every
 23 lessor shall keep a record of all payments remitted by the lessee on a
 24 rental purchase agreement, including the following:

- 25 (1) The name of the lessee.
- 26 (2) The date of each transaction.
- 27 (3) The total amount of each payment.
- 28 (4) A breakdown of each payment reflecting:
 - 29 (A) each type of charge; and
 - 30 (B) the amount of each type of charge.

31 The method of maintaining this data is at the discretion of the lessor,
 32 if hard copies of the required data are readily available. The record
 33 keeping system of the lessor shall be made available in Indiana for
 34 examination. The director shall determine the sufficiency of the records
 35 and whether the lessor has made the required information reasonably
 36 available.

37 (b) In administering this article and in order to determine
 38 compliance with this article, the department or the department's
 39 representative may examine the books and records of persons subject
 40 to the article and may make investigations of persons necessary to
 41 determine compliance. For this purpose, the department may
 42 administer oaths or affirmations, and, upon the department's own



1 motion or upon request of any party, may subpoena witnesses, compel
 2 their attendance, compel testimony, and require the production of any
 3 matter that is relevant to the investigation, including the existence,
 4 description, nature, custody, condition, and location of any books,
 5 documents, or other tangible things and the identity and location of
 6 persons having knowledge of relevant facts, or any other matter
 7 reasonably calculated to lead to the discovery of admissible evidence.

8 (c) If the person's records are located outside Indiana, the person
 9 shall, at the person's option, either make them available to the
 10 department at a convenient location in Indiana, or pay the reasonable
 11 and necessary expenses for the department or the department's
 12 representative to examine them at the place where they are maintained.
 13 The department may designate representatives, including comparable
 14 officials of the state in which the records are located, to inspect them
 15 on the department's behalf.

16 (d) Upon failure without lawful excuse to obey a subpoena or to
 17 give testimony and upon reasonable notice to all persons affected
 18 thereby, the department may apply to a court for an order compelling
 19 compliance.

20 (e) The department may not make public the name or identity of a
 21 person whose acts or conduct the department investigates under this
 22 section or the facts disclosed in the investigation, but this subsection
 23 does not apply to disclosures in actions or enforcement proceedings
 24 under this article.

25 (f) A lessor shall use generally accepted accounting principles and
 26 practices in keeping books and records so that the department or the
 27 department's representative may determine if the lessor is in
 28 compliance with this article or a rule adopted under this article.

29 (g) A lessor shall keep the lessor's books and records that pertain to
 30 a rental purchase agreement for at least two (2) years after the rental
 31 purchase agreement has terminated.

32 (h) To discover violations of this article or to secure information
 33 necessary for the enforcement of this article, the department may
 34 investigate:

35 (1) any person subject to this article; and

36 (2) any person that the department suspects to be operating in
 37 violation of **this** article.

38 The department has all investigatory and enforcement authority under
 39 this article that the department has under IC 28-11 with respect to
 40 financial institutions. If the department conducts an investigation under
 41 this section, the person investigated shall pay all reasonably incurred
 42 costs of the investigation in accordance with the fee schedule adopted



under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(i) If a lessor contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the lessor and be subject to the department's routine examination procedures, the person that provides the service to the lessor shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any lessor that receives services from the person refusing the examination to:

- (1) discontinue receiving one (1) or more services from the person; or
- (2) otherwise cease conducting business with the person.

SECTION 28. IC 24-8-1-1, AS AMENDED BY P.L.135-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies to a promotion offer made:

- (1) by a person in Indiana; or
- (2) to a person in Indiana.

(b) This article does not apply to a prize linked savings program that:

- (1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~

(2) is:

- (A) offered or conducted by a credit union organized or reorganized under United States law; and
- (B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

- (i) a national bank formed under 12 U.S.C. 21;**
- (ii) a state member bank (as defined in 12 U.S.C. 1813);**
- (iii) a state nonmember bank (as defined in 12 U.S.C.**



1 **1813); or**

2 **(iv) a savings association (as defined in 12 U.S.C. 1813);**

3 **and**

4 **(B) conducted in the same manner as a prize linked savings**
 5 **program under IC 28-1-23.2.**

6 SECTION 29. IC 28-1-11-4, AS AMENDED BY P.L.27-2012,
 7 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 JULY 1, 2015]: Sec. 4. (a) Except as otherwise provided in this article,
 9 the business of dealing in investment securities by any bank or trust
 10 company is limited to purchasing and selling securities without
 11 recourse, solely upon the order and for the account of customers and in
 12 no event for its own account. A bank or trust company may not
 13 underwrite or guarantee all or any part of any issue of securities other
 14 than obligations issued or guaranteed by or on behalf of the state or any
 15 political subdivision of the state or any agency or instrumentality of
 16 either. A bank or trust company may purchase for its own account and
 17 sell investment securities under such limitations and restrictions as the
 18 department prescribes by regulation, rule, policy, or guidance, but in no
 19 event may the total amount of the investment securities of any one (1)
 20 obligor or maker, purchased or held by a bank or trust company for its
 21 own account, exceed at any time ten percent (10%) of the amount of
 22 the total equity capital of the bank or trust company. The limitations
 23 imposed by this section do not apply to the direct or indirect obligations
 24 of the United States or the direct obligations of a United States territory
 25 or insular possession or of the state of Indiana or any municipal
 26 corporation or taxing district in Indiana. A bank or trust company may
 27 purchase for its own account and sell shares of stock in federal or state
 28 chartered small business investment companies that have received a
 29 permit or license to operate under the federal Small Business
 30 Investment Act (15 U.S.C. 681). However, a bank or trust company
 31 may not acquire shares in any small business investment company if,
 32 upon the making of that acquisition, the aggregate amount of shares in
 33 small business investment companies then held by the bank would
 34 exceed five percent (5%) of its total equity capital.

35 (b) A bank or trust company may purchase for its own account and
 36 sell:

37 (1) shares of open-end investment companies the portfolios of
 38 which consist solely of securities that are eligible for purchase
 39 and sale by national banking associations; and

40 (2) collateralized obligations that are eligible for purchase and
 41 sale by national banking associations. However, a bank or trust
 42 company may purchase for its own account and sell the



obligations only to the extent that a national banking association can purchase and sell those obligations.

(c) A bank or trust company may deposit its funds in:

(1) a federally chartered savings association; ~~or~~

(2) a savings association or other entity organized and operated according to federal law or the laws of any state or the District of Columbia; **or**

(3) a bank organized and operated according to federal law or the laws of any state or the District of Columbia;

the accounts of which are insured by the Federal Deposit Insurance Corporation.

(d) A bank or trust company may not purchase for its own account any bond, note, or other evidence of indebtedness that is commonly designated as a security that is speculative in character or that has speculative characteristics. For the purposes of this subsection, a security is speculative or has speculative characteristics if at the time of purchase the security:

(1) is rated below the first four (4) rating classes by a generally recognized security rating service;

(2) is in default; or

(3) is otherwise considered speculative by the director.

(e) A bank or trust company may purchase for its own account a security that is not rated by a generally recognized security rating service if:

(1) the bank or trust company at the time of purchase obtains financial information that is adequate to document the investment quality of the security; and

(2) the security is not otherwise considered speculative by the director.

(f) Except as otherwise authorized by this title, a bank or trust company may not purchase any share of stock of a corporation that is not a subsidiary of that bank or trust company unless the purchase is considered expedient to prevent loss from a debt previously contracted in good faith. Any shares of stock thus acquired by a bank or trust company that would not have been eligible for purchase shall be sold and disposed of within six (6) months from the date of acquisition unless the director grants an extension of time for the sale and disposition.

(g) Notwithstanding any other provision of this article, a bank or trust company may purchase for its own account shares of stock of a banker's bank insured by the Federal Deposit Insurance Corporation or a holding company that owns or controls a banker's bank insured by the



1 Federal Deposit Insurance Corporation. For the purposes of this
2 subsection, a "banker's bank" is a bank (as defined in IC 28-2-14-2):

3 (1) the stock of which is owned exclusively by other banks (as
4 defined in IC 28-2-14-2), or by a bank holding company the stock
5 of which is owned exclusively by other banks (as defined in
6 IC 28-2-14-2); and

7 (2) that is engaged exclusively in providing services to other
8 banks (as defined in IC 28-2-14-2), and to their officers, directors,
9 and employees.

10 A bank's or trust company's holdings of the stock of an insured banker's
11 bank or of a holding company that owns or controls an insured banker's
12 bank may not exceed ten percent (10%) of the capital and surplus of
13 the bank or trust company. A bank or trust company may not purchase
14 the stock of an insured banker's bank or of a holding company that
15 owns or controls an insured banker's bank if, after the purchase, the
16 bank or trust company would own more than five percent (5%) of any
17 class of voting securities of the banker's bank or holding company.

18 (h) Notwithstanding any other provision of this article, a bank or
19 trust company may invest in a casualty insurance company organized
20 solely for the purpose of insuring banks, trust companies, and bank
21 holding companies and their officers and directors from and against
22 liabilities, including those covered by bankers' blanket bonds and
23 director and officer liability insurance and other public liability
24 insurance. The investment must take the form of:

25 (1) the purchase for the bank's or trust company's own account of
26 shares of stock of the casualty insurance company or shares of
27 stock of an association of banks organized for the purpose of
28 funding the casualty insurance company; or

29 (2) loans to such an association of banks.

30 The total investment of any bank or trust company under this
31 subsection may not exceed five percent (5%) of the capital and surplus
32 of the bank or trust company.

33 (i) Any bank or trust company may establish or acquire a subsidiary
34 that engages in:

35 (1) the sale, distribution, or underwriting of securities issued by
36 investment companies (as defined in Section 3 of the Investment
37 Company Act of 1940 (15 U.S.C. 80a-3); or

38 (2) the underwriting or distribution of securities backed by or
39 representing an interest in mortgages.

40 (j) As used in this section, "total equity capital" means unimpaired
41 capital stock, unimpaired surplus, unimpaired undivided profits,
42 subordinated debt that has been approved by the state or federal



1 regulatory agencies, and one hundred percent (100%) of loan reserves.

2 (k) The department may define an investment security by
3 department policy or by rule.

4 (l) A bank or trust company may establish a trading account for the
5 purchase and resale of securities that are otherwise eligible for
6 purchase or resale by the bank or trust company. The trading account
7 must comply with the requirements established by policy or rule of the
8 department.

9 (m) A bank or trust company that purchases a security for its own
10 account shall maintain sufficient records of the security to allow the
11 security to be properly identified by the department for examination
12 purposes.

13 SECTION 30. IC 28-1-20-4, AS AMENDED BY P.L.90-2008,
14 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
15 JULY 1, 2015]: Sec. 4. (a) Except as provided in subsections (c), (d),
16 (g), and (o), it is unlawful for any person, firm, limited liability
17 company, or corporation (other than a bank or trust company, a bank
18 holding company, a subsidiary of a bank or trust company, a subsidiary
19 of a bank holding company, a subsidiary of a savings bank, or a
20 subsidiary of a savings association organized or reorganized under
21 IC 28 or statutes in effect at the time of organization or reorganization
22 or under the laws of the United States):

23 (1) to use the word, **or a derivation of the word**, "bank", "banc",
24 **or** "banco", **or "bankcor"**, as a part of the name or title of the
25 person, firm, limited liability company, or corporation **if the use**
26 **of the word would create a substantial likelihood of**
27 **misleading the public by implying that the person, firm,**
28 **limited liability company, or corporation is a state or**
29 **federally chartered bank, trust company, savings bank, or**
30 **savings association; or**

31 (2) to advertise or represent the person, firm, limited liability
32 company, or corporation to the public:

33 (A) as a bank or trust company or a corporate fiduciary; or

34 (B) as affording the services or performing the duties which by
35 law only a bank or trust company or a corporate fiduciary is
36 entitled to afford and perform.

37 (b) A financial institution organized under the laws of any state or
38 the United States is authorized to do business in Indiana:

39 (1) at its principal office;

40 (2) at any branch office; or

41 (3) otherwise;

42 using a name other than its official entity name if the financial



1 institution notifies the department at least ten (10) days before using
2 the other name.

3 (c) Notwithstanding the prohibitions of this section, an out-of-state
4 financial institution with the word "bank" in its legal name may use the
5 word "bank" if the financial institution is insured by the Federal
6 Deposit Insurance Corporation or its successor.

7 (d) Notwithstanding subsection (a), a building and loan association
8 organized under IC 28-4 (before its repeal) may include in its name or
9 title:

10 (1) the words "savings bank"; or

11 (2) the word "bank" if the name or title also includes either the
12 words "savings bank" or letters "SB".

13 A building and loan association that includes "savings bank" in its title
14 under this section does not by that action become a savings bank for
15 purposes of IC 28-6.1.

16 (e) The name or title of a savings bank governed by IC 28-6.1 must
17 include the words "savings bank" or the letters "SB".

18 (f) A savings association may include in its name the words
19 "building and loan association".

20 (g) Notwithstanding subsection (a), a bank holding company (as
21 defined in 12 U.S.C. 1841) may use the word "bank" or "banks" as a
22 part of its name. However, this subsection does not permit a bank
23 holding company to advertise or represent itself to the public as
24 affording the services or performing the duties that by law a bank or
25 trust company only is entitled to afford and perform.

26 (h) The department is authorized to investigate the business affairs
27 of any person, firm, limited liability company, or corporation that uses
28 "bank", "banc", or "banco" in its title or holds itself out as a bank,
29 corporate fiduciary, or trust company for the purpose of determining
30 whether the person, firm, limited liability company, or corporation is
31 violating any of the provisions of this article, and, for that purpose, the
32 department and its agents shall have access to any and all of the books,
33 records, papers, and effects of the person, firm, limited liability
34 company, or corporation. In making its examination, the department
35 may examine any person and the partners, officers, members, or agents
36 of the firm, limited liability company, or corporation under oath,
37 subpoena witnesses, and require the production of the books, records,
38 papers, and effects considered necessary. On application of the
39 department, the circuit or superior court of the county in which the
40 person, firm, limited liability company, or corporation maintains a
41 place of business shall, by proper proceedings, enforce the attendance
42 and testimony of witnesses and the production and examination of



books, papers, records, and effects.

(i) The department is authorized to exercise the powers under IC 28-11-4 against a person, firm, limited liability company, or corporation that improperly holds itself out as a financial institution.

(j) A person, firm, limited liability company, or corporation who violates this section is subject to a penalty of five hundred dollars (\$500) per day for each and every day during which the violation continues. The penalty imposed shall be recovered in the name of the state on relation of the department and, when recovered, shall be paid into the financial institutions fund established by IC 28-11-2-9.

(k) The word, **or a derivation of the word**, "bank", "banc", or "banco", **or "bankcor"** may not be included in the name of a corporate fiduciary **if the inclusion of the word would create a substantial likelihood of misleading the public by implying that the corporate fiduciary is a state or federally chartered bank, trust company, savings bank, or savings association.**

(l) A person, firm, limited liability company, or corporation may not use the name of an existing depository financial institution or holding company of a depository financial institution, or a name confusingly similar to that of an existing depository financial institution or holding company of a depository financial institution, when marketing to or soliciting business from a customer or prospective customer if the reference to the existing depository financial institution or holding company of a depository financial institution is:

(1) without the consent of the existing depository financial institution or holding company of a depository financial institution; and

(2) in a manner that could cause a reasonable person to believe that the marketing material or solicitation:

(A) originated from;

(B) is endorsed by; or

(C) is in any other way the responsibility of;

the existing depository financial institution or holding company of a depository financial institution.

(m) An existing depository financial institution or holding company of a depository financial institution may, in addition to any other remedies available under the law, report an alleged violation of subsection (l) to the department. If the department finds that the marketing material or solicitation in question is in violation of subsection (l), the department may direct the person, firm, limited liability company, or corporation to cease and desist from using that marketing material or solicitation in Indiana. If that person, firm,



1 limited liability company, or corporation persists in using the marketing
 2 material or solicitation, the department may impose a civil penalty of
 3 up to fifteen thousand dollars (\$15,000) for each violation. Each
 4 instance in which the marketing material or solicitation is sent to a
 5 customer or prospective customer constitutes a separate violation of
 6 subsection (l).

7 (n) Nothing in subsection (l) or (m) prohibits the use of or reference
 8 to the name of an existing depository financial institution or holding
 9 company of a depository financial institution in marketing materials or
 10 solicitations, if the use or reference does not deceive or confuse a
 11 reasonable person regarding whether the marketing material or
 12 solicitation:

13 (1) originated from;

14 (2) is endorsed by; or

15 (3) is in any other way the responsibility of;

16 the existing depository financial institution or holding company of a
 17 depository financial institution.

18 (o) A person, firm, limited liability company, or corporation may
 19 use the word, **or a derivation of the word**, "bank", "banc", **or** "banco",
 20 **or "bankcor"** if **it the use of the word** would not create a substantial
 21 likelihood of misleading the public by implying that the person, firm,
 22 limited liability company, or corporation is a state or federally
 23 chartered bank, **trust company**, **or** savings bank, **or savings**
 24 **association**.

25 (p) As used in this section, "depository financial institution" has the
 26 meaning set forth in IC 28-1-1-6.

27 (q) The department may adopt rules under IC 4-22-2 to implement
 28 this section.

29 SECTION 31. IC 28-1-22-1.5 IS ADDED TO THE INDIANA
 30 CODE AS A NEW SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a) As used in this section,**
 32 **"eligible entity" means a bank, savings bank, trust company,**
 33 **corporate fiduciary, credit union, industrial loan and investment**
 34 **company, or savings association that:**

35 (1) is organized under the laws of:

36 (A) any other state (as defined in IC 28-2-17-19);

37 (B) the United States; or

38 (C) any other country; and

39 (2) is domiciled in Indiana.

40 (b) An eligible entity may file with the secretary of state a notice
 41 concerning the eligible entity's:

42 (1) registered office; and



1 **(2) registered agent;**
 2 **in accordance with IC 23-15-11.**

3 SECTION 32. IC 28-1-29-4, AS AMENDED BY P.L.27-2012,
 4 SECTION 71, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2015]: Sec. 4. (a) The department may issue to a licensee an
 6 order to show cause why the licensee's license should not be revoked
 7 or suspended for a period determined by the department.

8 (b) An order issued under subsection (a) must:

9 (1) include:

10 (A) a statement of the place, date, and time for a meeting with
 11 the department, which date may not be less than ten (10) days
 12 from the date of the order;

13 (B) a description of the action contemplated by the
 14 department; and

15 (C) a statement of the facts or conduct supporting the issuance
 16 of the order; and

17 (2) be accompanied by a notice stating that the licensee is entitled
 18 to:

19 (A) a reasonable opportunity to be heard; and

20 (B) show the licensee's compliance with all lawful
 21 requirements for retention of the license;

22 at the meeting described in subdivision (1)(A).

23 (c) After the meeting described in subsection (b)(1)(A), the
 24 department may revoke or suspend the license if the department finds
 25 that:

26 (1) the licensee has repeatedly and willfully violated:

27 (A) this chapter or any **applicable** rule, order, or guidance
 28 document adopted or issued by the department; or

29 (B) any other state or federal law, regulation, or rule applicable
 30 to debt management companies;

31 (2) the licensee does not meet the licensing qualifications set forth
 32 in section 5 of this chapter;

33 (3) the licensee obtained the license for the benefit of, or on
 34 behalf of, a person who does not qualify for the license;

35 (4) the licensee knowingly or intentionally made material
 36 misrepresentations to, or concealed material information from, the
 37 department; or

38 (5) facts or conditions exist that, had they existed at the time the
 39 licensee applied for the license, would have been grounds for the
 40 department to deny the issuance of the license.

41 (d) Whenever the department revokes or suspends a license, the
 42 department shall enter an order to that effect and notify the licensee of:



- 1 (1) the revocation or suspension;
- 2 (2) if a suspension has been ordered, the duration of the
- 3 suspension;
- 4 (3) the procedure for appealing the revocation or suspension
- 5 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 6 (4) any other terms and conditions that apply to the revocation or
- 7 suspension.

8 Not later than five (5) days after the entry of the order, the department
 9 shall deliver to the licensee a copy of the order and the findings
 10 supporting the order.

11 (e) Any person holding a license to operate a debt management
 12 company may relinquish the license by notifying the department in
 13 writing of the relinquishment. However, a relinquishment under this
 14 subsection does not affect the person's liability for acts previously
 15 committed and coming within the scope of this chapter.

16 (f) If the director determines it to be in the public interest, the
 17 director may pursue revocation of a license of a licensee that has
 18 relinquished the license under subsection (e).

19 (g) If a person's license is revoked, suspended, or relinquished, the
 20 revocation, suspension, or relinquishment does not impair or affect any
 21 obligation owed by any person under any existing agreement or
 22 contract.

23 (h) If the director of the department has just cause to believe an
 24 emergency exists from which it is necessary to protect the interests of
 25 the public, the director may proceed with the revocation of a license
 26 through an emergency or another temporary order under IC 4-21.5-4.

27 SECTION 33. IC 28-1-29-8, AS AMENDED BY P.L.216-2013,
 28 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 29 JULY 1, 2015]: Sec. 8. (a) An agreement between a licensee and a
 30 debtor must:

- 31 (1) be in a written form;
- 32 (2) be dated and signed by the licensee and the debtor;
- 33 (3) include the name of the debtor and the address where the
- 34 debtor resides;
- 35 (4) include the name, business address, and telephone number of
- 36 the licensee;
- 37 (5) be delivered to the debtor immediately upon formation of the
- 38 agreement; and
- 39 (6) disclose the following:
 - 40 (A) The services to be provided.
 - 41 (B) The amount or method of determining the amount of all
 - 42 fees **and charges**, individually itemized, to be paid by the



- 1 debtor.
- 2 (C) The schedule of payments to be made by or on behalf of
- 3 the debtor, including the amount of each payment, the date on
- 4 which each payment is due, and an estimate of the date of the
- 5 final payment.
- 6 (D) If a plan provides for regular periodic payments to
- 7 creditors:
- 8 (i) each creditor of the debtor to which payment will be
- 9 made, the amount owed to each creditor, and any
- 10 concessions the licensee reasonably believes each creditor
- 11 will offer; and
- 12 (ii) the schedule of expected payments to each creditor,
- 13 including the amount of each payment and the date on which
- 14 the payment will be made.
- 15 (E) Each creditor that the licensee believes will not participate
- 16 in the plan and to which the licensee will not direct payment.
- 17 (F) The manner in which the licensee will comply with the
- 18 licensee's obligations under section 9(k) of this chapter.
- 19 (G) A statement that:
- 20 (i) the licensee may terminate the agreement for good cause,
- 21 upon return of unexpended money of the debtor; and
- 22 (ii) the debtor may contact the department with any
- 23 questions or complaints regarding the licensee.
- 24 (H) The address, telephone number, and Internet address or
- 25 web site of the department.
- 26 (b) For purposes of subsection (a)(5), delivery of an electronic
- 27 record occurs when:
- 28 (1) the record is made available in a format in which the debtor
- 29 may retrieve, save, and print the record; and
- 30 (2) the debtor is notified that the record is available.
- 31 (c) An agreement must provide that:
- 32 (1) the debtor has a right to terminate the agreement at any time
- 33 without penalty, notwithstanding the close-out fee as permitted by
- 34 section 8.3(d) of this chapter, or obligation, by giving the licensee
- 35 written or electronic notice, in which event:
- 36 (A) the licensee shall refund all unexpended money that the
- 37 licensee or the licensee's agent has received from or on behalf
- 38 of the debtor for the reduction or satisfaction of the debtor's
- 39 debt; and
- 40 (B) all powers of attorney granted by the debtor to the licensee
- 41 are revoked and ineffective;
- 42 (2) the debtor authorizes any bank insured by the Federal Deposit



Insurance Corporation in which the licensee or the licensee's agent has established a trust account to disclose to the department any financial records relating to the trust account;

(3) the licensee shall notify the debtor within five (5) days after learning of a creditor's final decision to reject or withdraw from a plan under the agreement; and

(4) the notice under subdivision (3) must include:

(A) the identity of the creditor; and

(B) a statement that the debtor has the right to modify or terminate the agreement.

(d) All creditors included in the plan must be notified of the **contract** debtor's and licensee's relationship.

(e) A licensee shall give to the contract debtor a dated receipt for each payment, at the time of the payment, unless the payment is made by check, money order, or automated clearinghouse withdrawal as authorized by the contract debtor.

(f) A licensee shall, upon cancellation by a contract debtor of the agreement, notify immediately in writing all creditors in the debt management plan of the cancellation by the contract debtor.

(g) A licensee may not enter into an agreement with a debtor unless a thorough, written budget analysis of the debtor indicates that the debtor can reasonably meet the payments required under a proposed plan. The following must be included in the budget analysis:

(1) Documentation and verification of all income considered. All income verification must be dated not more than sixty (60) days before the completion of the budget analysis.

(2) Monthly living expense figures, which must be reasonable for the particular family size and part of Indiana. If expenditure reductions are part of the planned budget for the debtor, details of the expected savings must be documented in the debtor's file and set forth in the budget provided to the debtor.

(3) Documentation and verification, by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of monthly debt payments and balances to be paid outside the plan.

(4) Documentation and verification, by a current credit bureau report, current debtor account statements, or direct documentation from the creditor, of the monthly debt payments and current balances to be paid through the plan.

(5) The date of the budget analysis and the signature of the debtor.

(h) A licensee may not enter into an agreement with a **contract** debtor for a period longer than sixty (60) months.



(i) A licensee may provide services under this chapter in the same place of business in which another business is operating, or from which other products or services are sold, if the director issues a written determination that:

(1) the operation of the other business; or

(2) the sale of other products and services;

from the location in question is not contrary to the best interests of the licensee's contract debtors.

(j) A licensee without a physical location in Indiana may:

(1) solicit sales of; and

(2) sell;

additional products and services to Indiana residents if the director issues a written determination that the proposed solicitation or sale is not contrary to the best interests of contract debtors.

(k) A licensee shall maintain a toll free communication system, staffed at a level that reasonably permits a contract debtor to speak to a counselor, debt specialist, or customer service representative, as appropriate, during ordinary business hours.

(l) A debt management company shall act in good faith in all matters under this chapter.

SECTION 34. IC 28-1-29-8.3, AS AMENDED BY P.L.216-2013, SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 8.3. (a) Except as otherwise permitted by this section, a licensee may not:

(1) impose, directly or indirectly, a fee or other charge on a debtor; or

(2) receive money from or on behalf of a debtor for debt management services.

(b) A licensee may not impose charges or receive payment for debt management services until:

(1) the licensee and the debtor have agreed upon a plan and have signed an agreement that complies with sections 8 and 9.5 of this chapter; and

(2) at least one (1) payment has been made to a creditor under the plan.

All creditors must be notified of the debtor's and licensee's relationship.

(c) If a debtor assents to a plan, the licensee may charge the following:

(1) A set up fee of not more than fifty dollars (\$50) for consultation, obtaining a credit report, and setting up an account. Acceptance of a plan payment by a creditor constitutes agreement by the creditor to the plan. A set up fee under this subdivision



1 may not be collected until the debtor, or the licensee on behalf of
 2 the debtor, has made at least one (1) payment to a creditor under
 3 the plan.

4 (2) Subject to subsection (d), a monthly service fee of the lesser
 5 of the following:

6 (A) Not more than fifteen percent (15%) of the amount the
 7 licensee receives from the contract debtor for payment to the
 8 contract debtor's creditors ~~for~~ **during** the applicable month.
 9 However, if the amount calculated under this clause is less
 10 than five dollars (\$5) for a particular month, the licensee may
 11 charge a monthly service fee of five dollars (\$5) for that
 12 month.

13 (B) Seventy-five dollars (\$75).

14 The monthly service fee under this subdivision may be charged
 15 for any one (1) month or part of a month. The amount of a set up
 16 fee under subdivision (1) may not be included in the calculation
 17 of the monthly service fee.

18 (d) Upon cancellation by a contract debtor or termination of
 19 payments by a contract debtor, a licensee may withhold for the
 20 licensee's own benefit not more than one hundred dollars (\$100), which
 21 may be accrued as a close-out fee.

22 (e) A licensee may not charge a contract debtor more than one (1)
 23 set up fee or one (1) close-out fee unless the contract debtor leaves the
 24 services of the licensee for more than six (6) months.

25 (f) With respect to any additional charge not specifically provided
 26 for in this section, the licensee must submit a written explanation of the
 27 charge to the department indicating how the charge would be assessed
 28 and the value or benefit conferred on the contract debtor in connection
 29 with the charge. Supporting documents may be required by the
 30 department. The department shall determine whether the charge:

31 (1) would be imposed in relation to some benefit conferred on the
 32 consumer; and

33 (2) is reasonable in relation to the benefit conferred.

34 An additional charge is not permitted unless approved by the
 35 department.

36 (g) For purposes of this chapter, the terms of an agreement
 37 commence on the date on which the agreement is made.

38 (h) A licensee may assess a charge of not more than twenty-five
 39 dollars (\$25) for each return by a bank or other depository institution
 40 of a dishonored check, negotiable order of withdrawal, or share draft
 41 issued by the contract debtor.

42 (i) Any fee charged by the licensee to the debtor under this section



1 for services rendered by the licensee, other than the fees described
 2 under subsection (e), is not considered a debt owed by the debtor to the
 3 licensee.

4 SECTION 35. IC 28-5-1-8, AS AMENDED BY P.L.158-2013,
 5 SECTION 300, IS AMENDED TO READ AS FOLLOWS
 6 [EFFECTIVE JULY 1, 2015]: Sec. 8. (a) Except as otherwise provided
 7 in subsections (c), (d), and (e), the total obligation of any person, firm,
 8 limited liability company, or corporation to any industrial loan and
 9 investment company shall at no time exceed fifteen percent (15%) of
 10 the amount of the capital and surplus of the company.

11 (b) The term "obligations" as used in this section means the direct
 12 liability of the maker or acceptor of paper discounted with or sold to
 13 any such company, and the liability of the indorser, drawer, or
 14 guarantor who obtains a loan from, or discounts paper with or sells
 15 paper under the person's guaranty to any such company, and, in the
 16 case of obligations of a copartnership or association, includes only
 17 those obligations of the several members thereof directly related to the
 18 copartnership or association, and, in the case of obligations of a
 19 corporation, includes all obligations of all subsidiaries thereof in which
 20 such corporation owns or controls a majority interest.

21 (c) Subsection (a) does not apply to the following:

22 (1) Obligations arising out of the discount of commercial or
 23 business paper actually owned by the person, firm, limited
 24 liability company, or corporation negotiating such paper.

25 (2) Obligations of the United States or any instrumentality thereof
 26 or of this state, or of any municipal corporation or taxing district
 27 thereof, or obligations fully insured by the federal housing
 28 administrator as to principal; however, the department may, under
 29 such rules and regulations as it may prescribe, limit the total
 30 amount that may be invested by any industrial loan and
 31 investment company in any one (1) obligation or in any class of
 32 obligations described in subdivisions (1) and (2).

33 (3) Obligations arising out of the agreement to repurchase, or the
 34 guaranty or endorsement of, retail installment sales contracts by
 35 a retail seller or subsequent assignee. However, this subdivision
 36 does not apply in any case where such company purchasing such
 37 paper does not become the absolute owner, or in any case where
 38 installment payments are collected by a prior owner of the paper,
 39 or by a retail seller of the goods represented thereby.

40 (4) Obligations arising out of the agreement to repurchase, or the
 41 guaranty or indorsement of, title-retaining real estate installment
 42 sales contracts by a seller, or subsequent assignees; however, this



subdivision does not apply in any case where such company purchasing such contracts does not become the absolute owner, or in any case where installment payments are collected by a prior owner of the contracts or by a seller of such contracts.

(5) Obligations of the borrower arising out of loans in which the borrower has no personal liability but which are secured by bailment leases or the rentals due and to become due thereunder; and the rights of the lessor in said leases and the property being leased thereunder, and which loans are to be repaid out of said rentals due and to become due under said leases; or obligations arising out of the guaranty, endorsement, or assignment of bailment leases or the rentals due and to become due thereunder by the lessor. However, this subdivision does not apply in any such case where such company does not have the right or does not actually collect the rentals due or to become due thereunder.

(d) Obligations to an industrial loan and investment company of any subsidiary or subsidiaries of the company engaged in business for the purpose provided in section 6(a)(15) of this chapter shall at no time exceed in the case of one (1) subsidiary ten percent (10%) of the capital and surplus of the company or, in the case of more than one (1) subsidiary, in the aggregate twenty percent (20%) of the capital and surplus of the company unless in either case the department shall approve a larger percentage.

(e) Obligations to an industrial loan and investment company of any subsidiary or subsidiaries of the company engaged in business for the purpose provided in section 6(a)(14) of this chapter shall at no time exceed in the aggregate thirty percent (30%) of the amount of the capital and surplus of the company or such larger sum as the department may approve.

(f) Except as otherwise provided in this subsection and in section 9 of this chapter, no loan shall be made, directly or indirectly, by any industrial loan and investment company, to any active executive officer, agent, or employee thereof. The board of directors or executive committee of any industrial loan and investment company may, by resolution, duly entered in the records of the proceedings of the board or committee, authorize loans to or extend lines of credit to:

(1) any active executive officer, agent, or employee of such industrial loan and investment company in any amount not exceeding, at any one (1) time outstanding:

(A) ten thousand dollars (\$10,000); plus

(B) ten thousand dollars (\$10,000) which may be used for the sole purpose of educating the children of such active executive



1 officer, agent, or employee as hereinafter provided; or
2 (2) directors not holding any office in such industrial loan and
3 investment company, and not acting as an agent or employee
4 thereof.

5 The board or committee may likewise authorize loans to or extend lines
6 of credit to firms, limited liability companies, or corporations in which
7 active executive officers, agents or employees or directors may be
8 partners, members, or stockholders, but the total amount of the
9 obligations of all such active executive officers, agents, or employees,
10 and directors, or other firms, limited liability companies, or
11 corporations in which such active executive officers, agents,
12 employees, and directors are partners, members, or stockholders, shall
13 not at any time exceed fifteen percent (15%) of the total resources of
14 the industrial loan and investment company at the time any such loan
15 or extension of credit is made. Loans and lines of credit permitted by
16 this subsection shall be made only on authorization by a majority of all
17 of the directors or members of the executive committee of such
18 industrial loan and investment company, and by the affirmative vote of
19 all directors or members of the executive committee present at the
20 meeting, and such authorization may be general and need not be given
21 for each loan or line of credit extended. However, such general
22 authorization shall be voted upon at least annually. When a line of
23 credit has been extended pursuant to this subsection to any such active
24 executive officer, agent, or employee or to any such director, or to any
25 firm, corporation, limited liability company, or partnership in which an
26 active executive officer, agent, employee, or director may be a partner,
27 member, or stockholder, any notes or other instruments evidencing an
28 indebtedness to the industrial loan and investment company, and any
29 renewals or extensions thereof, need not be authorized as otherwise
30 required by this subsection if such loan, or any renewal or any
31 extension thereof, is within the terms of the authorization of the line of
32 credit theretofore extended by the directors or executive committee to
33 such active executive officer, agent, or employee, or to such director,
34 or to any firm, corporation, limited liability company, or partnership in
35 which any active executive officer, agent, employee, or director may be
36 a partner, member or stockholder. The department, under such general
37 rules and regulations as it may prescribe, which shall apply to all
38 industrial loan and investment companies alike, may require full
39 collateral security for all loans of the types permitted by this subsection
40 and, for the purpose of providing that such security may be adequate,
41 may specify the types thereof that may be pledged. Subject to section
42 9 of this chapter, the limitations of this subsection shall not apply to a



1 loan by an industrial loan and investment company to an active
 2 executive officer, agent, or employee thereof made upon the security
 3 of real estate whereupon such active executive officer, agent, or
 4 employee maintains the person's actual residence. The term "actual
 5 residence" includes a two (2) family dwelling unit if one (1) of such
 6 units is occupied by the active executive officer, agent, or employee of
 7 the industrial loan and investment company.

8 (g) An officer or director of any industrial loan and investment
 9 company who knowingly violates subsection (f) commits a Level 4
 10 felony.

11 **(h) For purposes of any lending limits set forth in this section**
 12 **with respect to an industrial loan and investment company, the**
 13 **total loans and extensions of credit by an industrial loan and**
 14 **investment company includes any credit exposure to a person**
 15 **arising from a derivative transaction (as defined in 12 U.S.C.**
 16 **84(b)(3)) between the industrial loan and investment company and**
 17 **the person.**

18 SECTION 36. IC 28-7-1-17, AS AMENDED BY P.L.27-2012,
 19 SECTION 93, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 JULY 1, 2015]: Sec. 17. (a) Every loan application shall be submitted
 21 on a form approved by the board of directors. ~~When making an~~
 22 ~~application, a member shall state the security offered.~~ Loans may be
 23 dispersed upon written approval by a majority of the credit committee
 24 or a loan officer. If the credit committee or loan officer fails to approve
 25 an application for a loan, the applicant may appeal to the board of
 26 directors, ~~providing if~~ such appeal is authorized by the bylaws.

27 (b) Loans to members may be made only under the following terms
 28 and conditions:

29 (1) All loans shall be evidenced by notes signed by the borrowing
 30 member.

31 (2) Except as otherwise provided in this section, the terms of any
 32 loan to a member with a maturity of more than six (6) months
 33 shall provide for principal and interest payments that will
 34 amortize the obligation in full within the terms of the loan
 35 contract. If the income of the borrowing member is seasonal, the
 36 terms of the loan contract may provide for seasonal amortization.

37 (3) Loans may be made upon the security of improved or
 38 unimproved real estate. Except as otherwise specified in this
 39 section, such loans must be secured by a first lien upon real estate
 40 prior to all other liens, except for taxes and assessments not
 41 delinquent, and may be made with repayment terms other than as
 42 provided in subdivision (2). The credit union loan folder for all



1 real estate mortgage loans shall include the following:

- 2 (A) The loan application.
- 3 (B) The mortgage instrument.
- 4 (C) The note.
- 5 (D) The disclosure statement.
- 6 (E) The documentation of property insurance.
- 7 (F) For the real estate for which the loan is made, a written
- 8 appraisal, which must be performed by a state licensed or
- 9 certified appraiser designated by the board of directors if the
- 10 amount of the loan is at least two hundred fifty thousand
- 11 dollars (\$250,000).
- 12 ~~(G) The attorney's opinion of titles or a certificate of title~~
- 13 ~~insurance on the real estate upon which the mortgage loan is~~
- 14 ~~made.~~

15 (4) Loans made upon security of real estate are subject to the

16 following restrictions:

- 17 (A) Real estate loans in which no principal amortization is
- 18 required shall provide for the payment of interest at least
- 19 annually and shall mature within five (5) years of the date of
- 20 the loan unless extended and shall not exceed fifty percent
- 21 (50%) of the fair cash value of the real estate used as security.
- 22 (B) Real estate loans on improved real estate, except for
- 23 variable rate mortgage loans and rollover mortgage loans
- 24 provided for in subdivision (5), shall require substantially
- 25 equal payments at successive intervals of not more than one
- 26 (1) year, shall mature within thirty (30) years, and shall not
- 27 exceed one hundred percent (100%) of the fair cash value of
- 28 the real estate used as security.
- 29 (C) Real estate loans on unimproved real estate may be made.
- 30 The terms of the loan shall:
- 31 (i) require substantially equal payments of interest and
- 32 principal at successive intervals of one (1) year or less;
- 33 (ii) mature within ten (10) years; and
- 34 (iii) not exceed eighty-five percent (85%) of the fair cash
- 35 value of the real estate used as security.
- 36 (D) Loans primarily secured by a mortgage which constitutes
- 37 a second lien on improved real estate may be made only if the
- 38 aggregate amount of all loans on the real estate does not
- 39 exceed one hundred percent (100%) of the fair cash value of
- 40 the real estate after such loan is made. Repayment terms shall
- 41 be in accordance with subdivision (2).
- 42 (E) Real estate loans may be made for the construction of



- 1 improvements to real property. Funds borrowed may be
 2 advanced as work on the improvements progresses.
 3 Repayment terms must comply with subdivision (2).
 4 (5) Subject to the limitations of subdivision (3), variable rate
 5 mortgage loans and rollover mortgage loans may be made under
 6 the same limitations and rights provided state chartered savings
 7 associations under IC 28-1-21.5 (before its repeal) or IC 28-15 or
 8 federal credit unions.
 9 (6) As used in this subdivision, "originating lender" means the
 10 participating lender with which the member contracts. A credit
 11 union may participate with other state and federal depository
 12 financial institutions (as defined in IC 28-1-1-6) or credit union
 13 service organizations in making loans to credit union members
 14 and may sell a participating interest in any of its loans under
 15 written participation loan policies established by the board of
 16 directors. However, the credit union may not sell more than ninety
 17 percent (90%) of the principal of participating loans outstanding
 18 at the time of sale. A participating credit union that is not the
 19 originating lender may participate only in loans made to the credit
 20 union's own members or to members of another participating state
 21 or federal credit union. A master participation agreement must be
 22 properly executed. The agreement must include provisions for
 23 identifying, either through documents incorporated by reference
 24 or directly in the agreement, the participation loan or loans before
 25 the sale of the loans.
 26 (7) Notwithstanding subdivisions (1) through (6), a credit union
 27 may make any of the following:
 28 (A) Any loan that may be made by a federal credit union.
 29 However, IC 24-4.5 applies to any loan that is:
 30 (i) made under this clause; and
 31 (ii) within the scope of IC 24-4.5.
 32 Any provision of federal law that is in conflict with IC 24-4.5
 33 does not apply to a loan made under this clause.
 34 (B) Subject to subdivision (3), any alternative mortgage loan
 35 (as defined in IC 28-15-11-2) that may be made by a savings
 36 association (as defined in IC 28-15-1-11) under IC 28-15-11.
 37 A loan made under this clause by a credit union is subject to
 38 the same terms, conditions, exceptions, and limitations that
 39 apply to an alternative mortgage loan made by a savings
 40 association under IC 28-15-11.
 41 (8) A credit union may make a loan under either:
 42 (A) subdivisions (2) through (6); or



1 (B) subdivision (7);
 2 but not both. A credit union shall make an initial determination as
 3 to whether to make a loan under subdivisions (2) through (6) or
 4 under subdivision (7). If the credit union determines that a loan or
 5 category of loans is to be made under subdivision (7), the written
 6 loan policies of the credit union must include that determination.
 7 A credit union may not combine the terms and conditions that
 8 apply to a loan made under subdivisions (2) through (6) with the
 9 terms and conditions that apply to a loan made under subdivision
 10 (7) to make a loan not expressly described and authorized either
 11 under subdivisions (2) through (6) or under subdivision (7).
 12 (c) Nothing in this section prevents any credit union from taking an
 13 indemnifying or second mortgage on real estate as additional security.
 14 SECTION 37. IC 28-7-1-18, AS AMENDED BY P.L.137-2014,
 15 SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 16 JULY 1, 2015]: Sec. 18. (a) The supervisory committee shall cause the
 17 share and loan accounts of the members to be verified with the records
 18 of the treasurer at least each biennium. **A verification under this**
 19 **subsection shall be performed using one (1) of the following**
 20 **methods:**
 21 **(1) A verification of one hundred percent (100%) of the share**
 22 **and loan accounts of all members.**
 23 **(2) A verification of share and loan accounts in accordance**
 24 **with the requirements of the National Credit Union**
 25 **Administration set forth in 12 CFR 715.8.**
 26 (b) The supervisory committee shall supervise the acts of the board
 27 of directors, credit committee, and officers.
 28 (c) By a majority vote, the supervisory committee may call a
 29 meeting of the shareholders to consider any violation of this chapter,
 30 or of the bylaws, or any practice of the credit union which, in the
 31 opinion of the committee is unsafe and unauthorized.
 32 (d) The supervisory committee shall fill vacancies in its own
 33 number until the next annual meeting of the members.
 34 (e) At the close of the audit period, the supervisory committee shall
 35 make or cause to be made a thorough audit of the credit union for each
 36 audit period and shall make a full report to the directors. The audit
 37 report shall be issued not later than one hundred twenty (120) days
 38 following the close of the audit period. Tapes, work papers, schedules,
 39 and evidence of verification of accounts shall be retained until the next
 40 examination by the department. A summary of the report shall be read
 41 at the annual meeting and shall be filed and preserved with the records
 42 of the credit union.



(f) A credit union with assets of at least five million dollars (\$5,000,000) shall have an annual audit performed by an outside professional accounting firm. The department may require a professional outside audit to be performed upon any credit union if the department questions the safety and soundness of the credit union.

(g) Minutes of every meeting of the supervisory committee shall be kept and maintained.

SECTION 38. IC 28-7-1-24, AS AMENDED BY P.L.35-2010, SECTION 163, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 24. (a) All entrance charges shall, after payment of the organization expenses, be known as reserve income, and shall be added to the regular reserve of the credit union. At the close of the dividend period, there shall be set apart to the regular reserve ten percent (10%) of gross income until the regular reserve shall equal seven and one-half percent (7 1/2%) of the total of outstanding loans, then five percent (5%) of gross income until the regular reserve shall equal ten percent (10%) of the total of outstanding loans. Whenever the regular reserve falls below ten percent (10%) or seven and one-half percent (7 1/2%) of the total of outstanding loans, it shall be replenished by regular contributions to maintain the reserve goals of seven and one-half percent (7 1/2%) or ten percent (10%). The regular reserve shall be held to meet contingencies and shall not be distributed to the members except upon dissolution of the credit union.

(b) A credit union may have an undivided profits account. The undivided profits account may be transferred to the regular reserve.

(c) The department may, by rule, revise the formula prescribed by this section. A revised formula must be prudent and must reasonably be expected to protect the credit unions.

(d) Financial statements of credit unions must provide for full and fair disclosure of all assets, liabilities, and members' equity, including such allowance for loan loss accounts necessary to present fairly the financial position, and all income and expenses necessary to present fairly the results of operation for the period concerned.

(e) The maintenance of an allowance for loan losses and investment or other losses does not exempt a credit union from the requirement set forth in subsection (a) or regulation CU-2. The totals of the regular reserve, the allowance for loan losses account, and the allowance for investment losses shall be combined for determining the percentage of gross income to be transferred to the regular reserve.

(f) Loan losses of a credit union must be charged against the allowance for loan loss. Adjustments to the allowance for loan losses shall be made before the distribution of any dividend so that the



allowance for loan loss represents the value of loans and anticipated losses resulting from:

- (1) uncollectible loans, notes, and contracts receivable, including any uncollectible accrued interest receivable thereon;
- (2) assets acquired in liquidation of loans; and
- (3) loans purchased from other credit unions.

(g) Adjustments to the allowance for loan losses must be recorded in the expense account "provision for loan losses".

(h) If the balance of the allowance for loan losses is considered to be in excess of the amount needed to meet the full and fair disclosure requirements, the excess amount must be transferred to the regular reserve account or deducted from the provision for loan loss expense account.

SECTION 39. IC 28-7-1-24.1 IS REPEALED [EFFECTIVE JULY 1, 2015]. Sec. 24.1: (a) Notwithstanding section 24(a) of this chapter as it applies to the regular reserve formula, a credit union that:

- (1) has only share accounts that are insured by an agency of the federal government, the state, or an insuring entity that is approved by the department to insure credit union shares;
- (2) has assets of five hundred thousand dollars (\$500,000) or more; and
- (3) has been in operation for more than four (4) years;

may maintain reserves in accordance with this section.

(b) For purposes of this section, "risk assets" means all assets except the following:

- (1) Cash on hand.
- (2) Deposits or shares in federally or state insured banks, savings and loan associations, and credit unions.
- (3) Investments that are direct or indirect obligations of the United States government or its agencies.
- (4) Loans to other credit unions.
- (5) Student loans insured under the Higher Education Act (20 U.S.C. 1071 et seq.) or similar state insurance programs.
- (6) Loans insured under the National Housing Act (12 U.S.C. 1703) by the Federal Housing Authority.
- (7) Credit union mutual funds authorized by the Indiana Credit Union Act under IC 28-7-1-9(3)(f).
- (8) Prepaid expenses.
- (9) Accrued interest on nonrisk investments.
- (10) Furniture and equipment.
- (11) Land and buildings.
- (12) Loans fully secured by a pledge of shares in the lending



1 credit union; equal to and maintained to at least the amount of
2 loan outstanding:

3 (13) Loans that are purchased from liquidating credit unions and
4 guaranteed by an insuring agency of the federal government; the
5 state; or an agency approved by the department to insure credit
6 union share accounts:

7 (c) At the end of each accounting period, the gross income shall be
8 determined. Based on the amount of gross income, ten percent (10%)
9 of the gross income shall be set aside, as a regular reserve; until the
10 reserve shall equal four percent (4%) of total risk assets; and then five
11 percent (5%) of the gross income shall be set aside; until the reserve
12 equals six percent (6%) of total risk assets:

13 (d) Except for the method of calculating the regular reserve formula;
14 all other provisions of section 24 of this chapter pertaining to entrance
15 fees and charges; requirements of a special reserve for delinquent
16 loans; and waiver of such special reserve; apply to credit unions that
17 have reserves that are calculated under this section:

18 SECTION 40. IC 28-7-1-29 IS AMENDED TO READ AS
19 FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 29. Any credit union
20 organized or reorganized under the laws of Indiana or the United States
21 may convert from a state charter to a federal charter or from a federal
22 charter to a state charter as follows:

23 (1) A federally chartered credit union may apply for a state
24 charter by observing the following procedures:

25 (A) The board of directors shall pass a resolution that the
26 federal charter be canceled when and if a state charter is
27 applied for and issued to the credit union by the department of
28 financial institutions.

29 (B) Written notice of the resolution shall be sent to each
30 member at least thirty (30) days prior to the meeting in which
31 the resolution is to be submitted to the members.

32 (C) An affirmative majority vote of the members present at the
33 meeting shall be required to effect the conversion from federal
34 to state charter, provided a quorum is present at the meeting.

35 (D) Certified copies of the minutes of the proceedings of the
36 meeting of the members shall be filed with both the National
37 Credit Union Administration and the department.

38 (E) ~~Within thirty (30)~~ **Not later than seventy-five (75)** days
39 after receiving the certified copies of the minutes, an
40 examination of the financial condition of the credit union shall
41 be made by the department. The cost of the examination shall
42 be paid by the credit union.



(F) Within thirty (30) days after the completion of the examination, the department shall report to the credit union the results of its examination and supply the National Credit Union Administration with a copy of the examination report.

(G) If it receives a satisfactory report of the examination, the credit union must within thirty (30) days file its amended articles of incorporation and amended bylaws pursuant to this chapter with the secretary of state, and copies of the amended articles and amended bylaws must be directed to the department and the National Credit Union Administration.

(H) Officers, directors, and committee members shall retain their respective offices for the unexpired terms existing prior to the conversion, subject to the provisions of this chapter.

(I) The newly chartered credit union shall have all of the rights and privileges in and to all of the assets of the prior existing credit union and shall assume and be responsible for all of the obligations imposed while operating under the federal charter.

(2) A state chartered credit union may be converted into a federally chartered credit union by complying with the following requirements:

(A) The board must adopt and approve by a majority of the directors a resolution of conversion. The proposition for such conversion shall first be approved by a majority of the directors of the state credit union.

(B) The board must notify the membership either in person or by mail of the membership meeting at which the resolution of conversion will be acted upon. The notice must be mailed not more than thirty (30) and not less than seven (7) days before the meeting.

(C) The resolution must be approved by a majority of those voting, either in person or by absentee ballot, at the membership meeting called by the board.

(D) The results of the vote, verified by the affidavits of the chairperson or vice chairperson and the secretary, shall be filed with the department within ten (10) days after the vote is taken.

(E) If the proposition for conversion is approved, the credit union shall within ninety (90) days take the action necessary to make it a federal credit union. Within ten (10) days after receipt of the federal charter, the credit union shall file with the department a copy of the charter. Upon such filing, and after the credit union has notified the office of the secretary of



1 state that the conversion is concluded, the credit union shall
 2 cease to be a state credit union.

3 SECTION 41. IC 28-7-5-9, AS AMENDED BY P.L.89-2011,
 4 SECTION 51, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 5 JULY 1, 2015]: Sec. 9. **(a) As used in this section, "branch location"**
 6 **means a location that:**

7 **(1) is maintained by a person licensed or required to be**
 8 **licensed under this chapter;**

9 **(2) is located somewhere other than the person's main office**
 10 **location; and**

11 **(3) does not constitute a separate legal entity from, or a**
 12 **subsidiary of, the person.**

13 **(b)** Except in a transaction approved under section 9.1 of this
 14 chapter, a license ~~shall~~ **is not be** transferable or assignable. ~~More than~~
 15 **Subject to section 10 of this chapter, one (1) place of business or**
 16 **more branch locations** may be maintained under the same license.

17 SECTION 42. IC 28-7-5-13, AS AMENDED BY P.L.27-2012,
 18 SECTION 95, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2015]: Sec. 13. (a) The department may issue to a licensee an
 20 order to show cause why the licensee's license should not be revoked
 21 or suspended for a period determined by the department.

22 (b) An order issued under subsection (a) must:

23 (1) include:

24 (A) a statement of the place, date, and time for a meeting with
 25 the department, which date may not be less than ten (10) days
 26 from the date of the order;

27 (B) a description of the action contemplated by the
 28 department; and

29 (C) a statement of the facts or conduct supporting the issuance
 30 of the order; and

31 (2) be accompanied by a notice stating that the licensee is entitled
 32 to:

33 (A) a reasonable opportunity to be heard; and

34 (B) show the licensee's compliance with all lawful
 35 requirements for retention of the license;
 36 at the meeting described in subdivision (1)(A).

37 (c) After the meeting described in subsection (b)(1)(A), the
 38 department may revoke or suspend the license if the department finds
 39 that:

40 (1) the licensee has repeatedly and willfully violated:

41 (A) this chapter or any **applicable** rule, order, or guidance
 42 document adopted or issued by the department; or



- 1 (B) any other state or federal law, regulation, or rule applicable
- 2 to the business of a pawnbroker;
- 3 (2) the licensee does not meet the licensing qualifications set forth
- 4 in this chapter;
- 5 (3) the licensee obtained the license for the benefit of, or on
- 6 behalf of, a person who does not qualify for the license;
- 7 (4) the licensee knowingly or intentionally made material
- 8 misrepresentations to, or concealed material information from, the
- 9 department; or
- 10 (5) facts or conditions exist that, had they existed at the time the
- 11 licensee applied for the license, would have been grounds for the
- 12 department to deny the issuance of the license.
- 13 (d) Whenever the department revokes or suspends a license, the
- 14 department shall enter an order to that effect and notify the licensee of:
- 15 (1) the revocation or suspension;
- 16 (2) if a suspension has been ordered, the duration of the
- 17 suspension;
- 18 (3) the procedure for appealing the revocation or suspension
- 19 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 20 (4) any other terms and conditions that apply to the revocation or
- 21 suspension.
- 22 Not later than five (5) days after the entry of the order, the department
- 23 shall deliver to the licensee a copy of the order and the findings
- 24 supporting the order.
- 25 (e) Any person holding a license to operate as a pawnbroker may
- 26 surrender the license by complying with section 10.1 of this chapter.
- 27 However, a surrender of a license under section 10.1 of this chapter
- 28 does not affect the person's liability for acts previously committed and
- 29 coming within the scope of this chapter.
- 30 (f) If the director determines it to be in the public interest, the
- 31 director may pursue the revocation of a license of a licensee that has
- 32 surrendered the license under section 10.1 of this chapter.
- 33 (g) If a person's license is revoked, suspended, or surrendered, the
- 34 revocation, suspension, or surrender does not impair or affect any
- 35 obligation owed by any person under any existing contract, pledge, or
- 36 pawn ticket.
- 37 (h) If the director of the department has just cause to believe an
- 38 emergency exists from which it is necessary to protect the interests of
- 39 the public, the director may proceed with the revocation of a license
- 40 through an emergency or another temporary order under IC 4-21.5-4.
- 41 SECTION 43. IC 28-7-5-16, AS AMENDED BY P.L.137-2014,
- 42 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE



JULY 1, 2015]: Sec. 16. (a) The licensee shall keep and use in the licensee's business such books, accounts, and records as will enable the department to determine whether the licensee is complying with this chapter and with the rules adopted by the department under this chapter. Every licensee shall preserve such books, accounts, and records, including cards used in the card system for at least two (2) years after making the final entry on any loan recorded therein. The books and records of the licensee shall be kept so that the pawnbroking business transacted in Indiana may be readily separated and distinguished from the business of the licensee transacted elsewhere and from any other business in which the licensee may be engaged. To determine whether the licensee is complying with this chapter and with rules adopted by the department under this chapter, the department may examine the books, accounts, and records required to be kept by the licensee under this subsection. If the department examines the books, accounts, and records of the licensee under this subsection, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this subsection is delinquent. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(b) If a pawnbroker, in the conduct of the business, purchases an article from a seller, the purchase shall be evidenced by a bill of sale properly signed by the seller. All bills of sale must be in duplicate and must recite the following separate items:

- (1) Date of bill of sale.
- (2) Amount of consideration.
- (3) Name of pawnbroker.
- (4) Description of each article sold. However, if multiple articles of a similar nature that do not contain an identification or serial number (such as precious metals, gemstones, musical recordings, video recordings, books, or hand tools) are delivered together in one (1) transaction, the description of the articles is adequate if the description contains the quantity of the articles delivered and a physical description of the type of articles delivered, including any other unique identifying marks, numbers, names, letters, or special features.



(5) Signature of seller.

(6) Address of seller.

(7) Date of birth of the seller.

(8) The type of government issued identification used to verify the identity of the seller, together with the name of the governmental agency that issued the identification, and the identification number present on the government issued identification.

(c) The original copy of the bill of sale shall be retained by the pawnbroker. The second copy shall be delivered to the seller by the pawnbroker at the time of sale. The heading on all bill of sale forms must be in boldface type.

(d) If a pawnbroker, in the conduct of the business, purchases precious metal (as defined in IC 24-4-19-6) from a seller, the pawnbroker shall, for at least ten (10) calendar days after the date the pawnbroker purchases the precious metal, retain the precious metal:

(1) at the pawnbroker's permanent place of business where the pawnbroker purchased the precious metal; and

(2) separate from other precious metal.

(e) Each licensee shall maintain a record of control indicating the number of accounts and dollar value of all outstanding pawnbroking receivables.

(f) If a licensee contracts with an outside vendor to provide a service that would otherwise be undertaken internally by the licensee and be subject to the department's routine examination procedures, the person that provides the service to the licensee shall, at the request of the director, submit to an examination by the department. If the director determines that an examination under this subsection is necessary or desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 44. IC 28-8-4-38, AS AMENDED BY P.L.137-2014, SECTION 32, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 38. (a) A licensee may renew a license by complying with the following:

(1) Filing with the director or the director's designee the annual renewal in the form that is prescribed by the director and sent by the director to each licensee not later than December 31 of each



year. The renewal must include the following, which, except for the financial statements described in clause (A), must be filed not later than December 31:

(A) Either:

(i) a copy of the licensee's most recent audited consolidated annual financial statements, including a balance sheet, a statement of income or loss, a statement of changes in ~~shareholder's~~ **shareholder** equity, and a statement of changes in financial position; or

(ii) if the licensee is a wholly owned subsidiary, the parent corporation's or parent organization's most recent consolidated audited annual financial statements or the parent corporation's or parent organization's most recent Form 10K report filed with the Securities and Exchange Commission, along with the licensee's unaudited annual financial statements.

The audited financial statements required to be submitted under this clause must be prepared by an independent certified public accountant authorized to do business in the United States in accordance with AICPA Statements on Standards for Accounting and Review Services (SSARS) and must be filed with the director or the director's designee not later than one hundred twenty (120) days after the close of the calendar or fiscal year covered by the statements.

(B) The number of payment instruments sold by the licensee in Indiana, the dollar amount of those instruments, and the dollar amount of outstanding payment instruments sold by the licensee calculated from the most recent quarter for which data is available before the date of the filing of the renewal application, but in no event more than one hundred twenty (120) days before the renewal date.

(C) Material changes to the information submitted by the licensee on its original application or as part of a renewal that have not been reported previously to the director on any other report or renewal required to be filed under this chapter.

(D) A list of the licensee's permissible investments.

(E) A list of the locations within Indiana at which business regulated by this chapter will be conducted by either the licensee or its authorized delegate, including information concerning any business, other than the business of money transmission under this chapter, that will be conducted at each identified location, as required under section 24(10) of this



1 chapter.
2 (2) Paying the annual renewal fee described under section 37 of
3 this chapter.
4 (b) A licensee that:
5 (1) does not:
6 (A) file:
7 (i) a renewal; or
8 (ii) any financial statements required by subsection
9 (a)(1)(A);
10 by the renewal filing deadline set by the director; or
11 (B) pay the renewal fee by December 31 of each year; and
12 (2) has not been granted an extension of time by the department
13 to meet the requirements described in subdivision (1);
14 shall be notified by the department, in writing, that a hearing will be
15 scheduled at which the licensee will be required to show cause why its
16 license should not be suspended pending compliance with these
17 requirements. If after the hearing the license is not suspended, the
18 department shall require a daily late fee beginning with the date the
19 renewal, the financial statements, or the annual renewal fee is required
20 by this chapter, in an amount fixed by the department under
21 IC 28-11-3-5.
22 (c) The director may, for good cause shown, waive any requirement
23 of this section.
24 SECTION 45. IC 28-8-4-41, AS AMENDED BY P.L.137-2014,
25 SECTION 33, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 JULY 1, 2015]: Sec. 41. (a) The director may conduct an annual onsite
27 examination of a licensee or an authorized delegate of a licensee.
28 (b) If the director determines that a reasonable belief exists that a
29 person is operating without a valid license or in violation of this
30 chapter, the director has the authority to investigate and examine the
31 records of that person. The person examined must pay the reasonably
32 incurred costs of the examination.
33 (c) Except as provided in section 42(a)(2) of this chapter, the
34 director must give the licensee forty-five (45) days written notice
35 before conducting an onsite examination.
36 (d) If the director determines, based on the licensee's financial
37 statements and past history of operations in Indiana, that an onsite
38 examination is unnecessary, the director may waive the onsite
39 examination.
40 (e) If the director concludes that an onsite examination of a licensee
41 is necessary, the licensee shall pay all reasonably incurred costs of such
42 examination in accordance with the fee schedule adopted under



1 IC 28-11-3-5. A fee established by the department under IC 28-11-3-5
 2 may be charged for each day a fee under this section is delinquent. **Any**
 3 **costs required to be paid under this section shall be paid not later**
 4 **than sixty (60) days after the person receives a notice from the**
 5 **department of the costs being assessed. The department may**
 6 **impose a fee, in an amount fixed by the department under**
 7 **IC 28-11-3-5, for each day that the assessed costs are not paid,**
 8 **beginning on the first day after the sixty (60) day period described**
 9 **in this subsection.**

10 (f) An onsite examination may be conducted in conjunction with
 11 examinations to be performed by representatives of agencies of another
 12 state or states. In lieu of an onsite examination, a director may accept
 13 the examination report of an agency of another state, or a report
 14 prepared by an independent accounting firm. A report accepted under
 15 this subsection shall be considered, for all purposes, to be an official
 16 report of the director.

17 (g) To discover violations of this chapter or to secure information
 18 necessary for the enforcement of this chapter, the department may
 19 investigate any:

20 (1) licensee; or

21 (2) person that the department suspects to be operating:

22 (A) without a license, when a license is required under this
 23 chapter; or

24 (B) otherwise in violation of this chapter.

25 The department has all investigatory and enforcement authority under
 26 this chapter that the department has under IC 28-11 with respect to
 27 financial institutions. If the department conducts an investigation under
 28 this section, the licensee or other person investigated shall pay all
 29 reasonably incurred costs of the investigation in accordance with the
 30 fee schedule adopted under IC 28-11-3-5. **Any costs required to be**
 31 **paid under this section shall be paid not later than sixty (60) days**
 32 **after the person receives a notice from the department of the costs**
 33 **being assessed. The department may impose a fee, in an amount**
 34 **fixed by the department under IC 28-11-3-5, for each day that the**
 35 **assessed costs are not paid, beginning on the first day after the**
 36 **sixty (60) day period described in this subsection.**

37 (h) If a licensee contracts with an outside vendor to provide a
 38 service that would otherwise be undertaken internally by the licensee
 39 and be subject to the department's routine examination procedures, the
 40 person that provides the service to the licensee shall, at the request of
 41 the director, submit to an examination by the department. If the director
 42 determines that an examination under this subsection is necessary or



desirable, the examination may be made at the expense of the person to be examined. If the person to be examined under this subsection refuses to permit the examination to be made, the director may order any licensee that receives services from the person refusing the examination to:

(1) discontinue receiving one (1) or more services from the person; or

(2) otherwise cease conducting business with the person.

SECTION 46. IC 28-8-4-48, AS AMENDED BY P.L.27-2012, SECTION 101, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 48. (a) The director may issue to a licensee an order to show cause why the licensee's license should not be revoked or suspended for a period determined by the department.

(b) An order issued under subsection (a) must:

(1) include:

(A) a statement of the place, date, and time for a meeting with the department, which date may not be less than ten (10) days from the date of the order;

(B) a description of the action contemplated by the department; and

(C) a statement of the facts or conduct supporting the issuance of the order; and

(2) be accompanied by a notice stating that the licensee is entitled to:

(A) a reasonable opportunity to be heard; and

(B) show the licensee's compliance with all lawful requirements for retention of the license;

at the meeting described in subdivision (1)(A).

(c) After the meeting described in subsection (b)(1)(A), the department may revoke or suspend the license if the department finds that:

(1) the licensee has repeatedly and willfully violated:

(A) this chapter or any **applicable** rule, order, or guidance document adopted or issued by the department; or

(B) any other state or federal law, regulation, or rule applicable to the business of money transmission;

(2) the licensee does not meet the licensing qualifications set forth in this chapter;

(3) the licensee obtained the license for the benefit of, or on behalf of, a person who does not qualify for the license;

(4) the licensee knowingly or intentionally made material misrepresentations to, or concealed material information from, the



department; or

(5) facts or conditions exist that, had they existed at the time the licensee applied for the license, would have been grounds for the department to deny the issuance of the license.

(d) Whenever the department revokes or suspends a license, the department shall enter an order to that effect and notify the licensee of:

(1) the revocation or suspension;

(2) if a suspension has been ordered, the duration of the suspension;

(3) the procedure for appealing the revocation or suspension under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and

(4) any other terms and conditions that apply to the revocation or suspension.

Not later than five (5) days after the entry of the order, the department shall deliver to the licensee a copy of the order and the findings supporting the order.

(e) Any person holding a license to engage in the business of money transmission may relinquish the license by notifying the department in writing of the relinquishment. However, a relinquishment under this subsection does not affect the person's liability for acts previously committed and coming within the scope of this chapter.

(f) If the director determines it to be in the public interest, the director may pursue the revocation of a license of a licensee that has relinquished the license under subsection (e).

(g) If a person's license is revoked, suspended, or relinquished, the revocation, suspension, or relinquishment does not impair or affect any obligation owed by any person under any existing lawful contract.

(h) If the director of the department has just cause to believe an emergency exists from which it is necessary to protect the interests of the public, the director may proceed with the revocation of a license through an emergency or another temporary order under IC 4-21.5-4.

SECTION 47. IC 28-8-5-18.4, AS AMENDED BY P.L.35-2010, SECTION 188, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 18.4. (a) This section applies if, after a person has been issued a license or renewal license under this chapter, the licensee, or any individual described in section 11(b)(2) of this chapter, has been convicted of or pleaded guilty ~~or not to contendere~~ to a felony under the laws of Indiana or any other jurisdiction.

(b) If this section applies, the licensee shall provide to the department the information required under section 11(b)(2)(D) of this chapter:

(1) not later than thirty (30) days after the licensee or individual



described in section 11(b)(2) of this chapter has been convicted of or pleaded guilty ~~or not to contend~~ to the felony; or (2) if the licensee's next license renewal fee under section 15 of this chapter is due before the date described in subdivision (1), along with the licensee's next license renewal fee under section 15 of this chapter.

SECTION 48. IC 28-8-5-19, AS AMENDED BY THE TECHNICAL CORRECTIONS BILL OF THE 2015 GENERAL ASSEMBLY, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 19. (a) The department may examine the books, accounts, and records of a licensee and may make investigations to determine compliance.

(b) If the department examines the books, accounts, and records of a licensee, the licensee shall pay all reasonably incurred costs of the examination in accordance with the fee schedule adopted under IC 28-11-3-5. A fee established by the department under IC 28-11-3-5 may be charged for each day a fee under this section is delinquent. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the assessed costs are not paid, beginning on the first day after the sixty (60) day period described in this subsection.**

(c) To discover violations of this chapter or to secure information necessary for the enforcement of this chapter, the department may investigate any:

(1) licensee; or

(2) person that the department suspects to be operating:

(A) without a license, when a license is required under this chapter; or

(B) otherwise in violation of **this** chapter.

The department has all investigatory and enforcement authority under this chapter that the department has under IC 28-11 with respect to financial institutions. If the department conducts an investigation under this section, the licensee or other person investigated shall pay all reasonably incurred costs of the investigation in accordance with the fee schedule adopted under IC 28-11-3-5. **Any costs required to be paid under this section shall be paid not later than sixty (60) days after the person receives a notice from the department of the costs being assessed. The department may impose a fee, in an amount fixed by the department under IC 28-11-3-5, for each day that the**



1 **assessed costs are not paid, beginning on the first day after the**
 2 **sixty (60) day period described in this subsection.**

3 (d) If a licensee contracts with an outside vendor to provide a
 4 service that would otherwise be undertaken internally by the licensee
 5 and be subject to the department's routine examination procedures, the
 6 person that provides the service to the licensee shall, at the request of
 7 the director, submit to an examination by the department. If the director
 8 determines that an examination under this subsection is necessary or
 9 desirable, the examination may be made at the expense of the person
 10 to be examined. If the person to be examined under this subsection
 11 refuses to permit the examination to be made, the director may order
 12 any licensee that receives services from the person refusing the
 13 examination to:

14 (1) discontinue receiving one (1) or more services from the
 15 person; or

16 (2) otherwise cease conducting business with the person.

17 SECTION 49. IC 28-8-5-22, AS AMENDED BY P.L.27-2012,
 18 SECTION 105, IS AMENDED TO READ AS FOLLOWS
 19 [EFFECTIVE JULY 1, 2015]: Sec. 22. (a) The department may issue
 20 to a licensee an order to show cause why the licensee's license should
 21 not be revoked or suspended for a period determined by the
 22 department.

23 (b) An order issued under subsection (a) must:

24 (1) include:

25 (A) a statement of the place, date, and time for a meeting with
 26 the department, which date may not be less than ten (10) days
 27 from the date of the order;

28 (B) a description of the action contemplated by the
 29 department; and

30 (C) a statement of the facts or conduct supporting the issuance
 31 of the order; and

32 (2) be accompanied by a notice stating that the licensee is entitled
 33 to:

34 (A) a reasonable opportunity to be heard; and

35 (B) show the licensee's compliance with all lawful
 36 requirements for retention of the license;

37 at the meeting described in subdivision (1)(A).

38 (c) After the meeting described in subsection (b)(1)(A), the
 39 department may revoke or suspend the license if the department finds
 40 that:

41 (1) the licensee has repeatedly and willfully violated:

42 (A) this chapter or any **applicable** rule, order, or guidance



- 1 document adopted or issued by the department; or
- 2 (B) any other state or federal law, regulation, or rule applicable
- 3 to the business of cashing checks for consideration;
- 4 (2) the licensee does not meet the licensing qualifications set forth
- 5 in this chapter;
- 6 (3) the licensee obtained the license for the benefit of, or on
- 7 behalf of, a person who does not qualify for the license;
- 8 (4) the licensee knowingly or intentionally made material
- 9 misrepresentations to, or concealed material information from, the
- 10 department; or
- 11 (5) facts or conditions exist that, had they existed at the time the
- 12 licensee applied for the license, would have been grounds for the
- 13 department to deny the issuance of the license.
- 14 (d) Whenever the department revokes or suspends a license, the
- 15 department shall enter an order to that effect and notify the licensee of:
- 16 (1) the revocation or suspension;
- 17 (2) if a suspension has been ordered, the duration of the
- 18 suspension;
- 19 (3) the procedure for appealing the revocation or suspension
- 20 under ~~IC 4-21.5-3-5~~; **IC 4-21.5-3-6**; and
- 21 (4) any other terms and conditions that apply to the revocation or
- 22 suspension.
- 23 Not later than five (5) days after the entry of the order, the department
- 24 shall deliver to the licensee a copy of the order and the findings
- 25 supporting the order.
- 26 (e) Any person holding a license to engage in the business of
- 27 cashing checks for consideration may relinquish the license by
- 28 notifying the department in writing of the relinquishment. However, a
- 29 relinquishment under this subsection does not affect the person's
- 30 liability for acts previously committed and coming within the scope of
- 31 this chapter.
- 32 (f) If the director determines it to be in the public interest, the
- 33 director may pursue the revocation of a license of a licensee that has
- 34 relinquished the license under subsection (e).
- 35 (g) If a person's license is revoked, suspended, or relinquished, the
- 36 revocation, suspension, or relinquishment does not impair or affect any
- 37 obligation owed by any person under any existing lawful contract.
- 38 (h) If the director of the department has just cause to believe an
- 39 emergency exists from which it is necessary to protect the interests of
- 40 the public, the director may proceed with the revocation of a license
- 41 through an emergency or another temporary order under IC 4-21.5-4.
- 42 SECTION 50. IC 28-10-1-1, AS AMENDED BY P.L.137-2014,



SECTION 38, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. A reference to a federal law or federal regulation in this title is a reference to the law or regulation as in effect December 31, ~~2013~~ **2014**.

SECTION 51. IC 35-45-5-7, AS AMENDED BY P.L.135-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

(1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state;

(2) a game of chance operated in accordance with IC 4-32.2;

(3) a gambling game operated in accordance with IC 4-35; or

(4) a prize linked savings program that:

(A) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~

(B) is:

(i) offered or conducted by a credit union organized or reorganized under United States law; and

(ii) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; ~~or~~

(C) is offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); if the prize linked savings program is conducted in the same manner as a prize linked savings program under IC 28-1-23.2.

SECTION 52. IC 35-45-5-13, AS ADDED BY P.L.135-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. This chapter does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~

(2) is:

(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; ~~or~~



- 1 **(3) is:**
2 **(A) offered or conducted by an insured depository**
3 **institution (as defined in 12 U.S.C. 1813) that is:**
4 **(i) a national bank formed under 12 U.S.C. 21;**
5 **(ii) a state member bank (as defined in 12 U.S.C. 1813);**
6 **(iii) a state nonmember bank (as defined in 12 U.S.C.**
7 **1813); or**
8 **(iv) a savings association (as defined in 12 U.S.C. 1813);**
9 **and**
10 **(B) conducted in the same manner as a prize linked savings**
11 **program under IC 28-1-23.2.**



COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1287, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 24, line 34, delete "A" and insert "**Subject to subsection (7), a**".

Page 25, between lines 37 and 38, begin a new paragraph and insert:

"(7) Notwithstanding IC 24-4.5-1-301.5(39), for purposes of subsection (2), a person "regularly engages" in any of the activities described in subsection (2) with respect to a small loan if the person:

(a) performed any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year; or

(b) performs or will perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the current calendar year if the person did not perform any of the activities described in subsection (2) with respect to a small loan at least one (1) time in the preceding calendar year."

Page 26, line 39, delete "coerce" and insert "**compel**".

Page 29, delete lines 13 through 22.

Page 51, line 39, after "(30)" insert "**Not later than seventy-five (75)**".

Page 51, line 39, reset in roman "days after receiving the certified copies".

Page 51, line 40, reset in roman "of the minutes,".

Page 51, line 40, delete "An" and insert "an".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as introduced.)

BURTON

Committee Vote: yeas 12, nays 0.



HOUSE MOTION

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 4, between lines 12 and 13, begin a new paragraph and insert:
 "SECTION 4. IC 23-15-11 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]:

Chapter 11. Registered Office and Agent for Certain Indiana Domiciled Financial Institutions

Sec. 1. As used in this chapter, "eligible entity" has the meaning set forth in IC 28-1-22-1.5.

Sec. 2. (a) An eligible entity may file a notice concerning the eligible entity's:

- (1) registered office; and**
- (2) registered agent;**

as described in IC 28-1-22-1.5.

(b) A notice filed by an eligible entity under subsection (a) must include the following information with respect to the eligible entity:

- (1) The address of a registered office in Indiana.**
- (2) The name of a registered agent, who must be:**
 - (A) an individual who resides in Indiana and whose business office is identical with the registered office identified under subdivision (1);**
 - (B) a domestic limited liability company, domestic corporation, or nonprofit domestic corporation whose business office is identical with the registered office identified under subdivision (1); or**
 - (C) a foreign limited liability company, foreign corporation, or nonprofit foreign corporation authorized to transact business in Indiana and whose business office is identical with the registered office identified under subdivision (1).**

(c) In addition to the information set forth in subsection (b), a notice filed by an eligible entity under subsection (a) must include:

- (1) the written consent of the registered agent designated under subsection (b)(2) to the designation; or**
- (2) a representation that the registered agent has consented to the designation.**

Sec. 3. (a) An eligible entity that files a notice under section 2 of this chapter may change the eligible entity's registered office or registered agent by delivering to the secretary of state for filing a statement of change that includes the following:

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- (1) The name of the eligible entity.
- (2) The address of the eligible entity's registered office at the time of filing.
- (3) If the registered office identified under subdivision (2) is to be changed, the address of the new registered office.
- (4) The name of the eligible entity's registered agent at the time of filing.
- (5) If the registered agent identified under subdivision (4) is to be changed, the name of the new registered agent, along with:
 - (A) the written consent of the new registered agent to the designation; or
 - (B) a representation that the new registered agent has consented to the designation.

The written consent described in clause (A) or the representation described in clause (B) may be incorporated into the statement of change filed under this section or filed along with the statement of change as an attachment.

- (6) A statement indicating that after the identified changes to the registered office or the registered agent are made, the address of the eligible entity's registered office and the business address of the eligible entity's registered agent will be identical.

(b) If the registered agent for an eligible entity changes the address of the registered agent's business office, the registered agent may change the address of the registered office for the eligible entity by:

- (1) notifying the eligible entity in writing of the change; and
- (2) signing (either manually or in facsimile) and delivering to the secretary of state for filing a statement that:
 - (A) complies with subsection (a); and
 - (B) states that the eligible entity has been notified of the change.

Sec. 4. (a) The registered agent for an eligible entity may resign the agency appointment by signing and delivering to the secretary of state for filing, as described in IC 23-1-18, a statement of resignation. The statement of resignation may include a statement that the registered office for the eligible entity is also discontinued.

(b) After filing the statement, the secretary of state shall mail one (1) copy to the eligible entity at the eligible entity's principal office, if known, and one (1) copy to the eligible entity's registered office, if the registered office is not discontinued.



(c) On the thirty-first day after the date on which a statement is filed under this section:

- (1) the agency appointment is terminated; and
- (2) the registered office for the eligible entity is discontinued if so provided in the statement of resignation.

Sec. 5. (a) The registered agent of an eligible entity is the eligible entity's agent for service of process, notice, or demand required or permitted by law to be served on the eligible entity.

(b) If an eligible entity has no registered agent or the eligible entity's registered agent cannot with reasonable diligence be served, the eligible entity may be served by registered or certified mail, return receipt requested, addressed to the secretary of the eligible entity or to another executive officer, as that term is used in Trial Rule 4.6(A)(1), at the eligible entity's principal office. Service is perfected under this subsection at the earliest of:

- (1) the date the eligible entity receives the mail;
- (2) the date shown on the return receipt, if signed on behalf of the eligible entity; or
- (3) five (5) days after deposit in the United States mail, if mailed postpaid and correctly addressed.

(c) This section does not prescribe the only means, or necessarily the required means, of serving an eligible entity."

Page 36, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 28. IC 28-1-22-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: **Sec. 1.5. (a)** As used in this section, "eligible entity" means a bank, savings bank, trust company, corporate fiduciary, credit union, industrial loan and investment company, or savings association that:

- (1) is organized under the laws of:
 - (A) any other state (as defined in IC 28-2-17-19);
 - (B) the United States; or
 - (C) any other country; and
- (2) is domiciled in Indiana.

(b) An eligible entity may file with the secretary of state a notice concerning the eligible entity's:

- (1) registered office; and



**(2) registered agent;
in accordance with IC 23-15-11."**

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 30, 2015.)

BURTON

HOUSE MOTION

Mr. Speaker: I move that House Bill 1287 be amended to read as follows:

Page 3, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 2. IC 4-32.2-1-1, AS AMENDED BY P.L.135-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies only to a qualified organization.

(b) This article applies only to the following approved gambling events conducted as fundraising activities by qualified organizations:

(1) Bingo events, charity game nights, door prize events, raffle events, festivals, and other gaming events approved by the commission.

(2) The sale of pull tabs, punchboards, and tip boards:

(A) at bingo events, charity game nights, door prize events, raffle events, and festivals conducted by qualified organizations; or

(B) at any time on the premises owned or leased by a qualified organization and regularly used for the activities of the qualified organization.

This article does not apply to any other sale of pull tabs, punchboards, and tip boards.

(c) This article does not apply to a promotion offer subject to IC 24-8.

(d) This article does not apply to the following:

(1) A type II gambling game authorized by IC 4-36.

(2) A raffle or other gambling game authorized by IC 4-36-5-1(b).

(e) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; or

(2) is:

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(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."

Page 29, between lines 24 and 25, begin a new paragraph and insert:
"SECTION 25. IC 24-8-1-1, AS AMENDED BY P.L.135-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 1. (a) This article applies to a promotion offer made:

(1) by a person in Indiana; or

(2) to a person in Indiana.

(b) This article does not apply to a prize linked savings program that:

(1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; **or**

(2) is:

(A) offered or conducted by a credit union organized or reorganized under United States law; and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**

(3) is:

(A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:

(i) a national bank formed under 12 U.S.C. 21;

(ii) a state member bank (as defined in 12 U.S.C. 1813);

(iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or

(iv) a savings association (as defined in 12 U.S.C. 1813); and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."



Page 65, after line 7, begin a new paragraph and insert:

"SECTION 47. IC 35-45-5-7, AS AMENDED BY P.L.135-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 7. This chapter does not apply to the publication or broadcast of an advertisement, a list of prizes, or other information concerning:

- (1) pari-mutuel wagering on horse races or a lottery authorized by the law of any state;
 - (2) a game of chance operated in accordance with IC 4-32.2;
 - (3) a gambling game operated in accordance with IC 4-35; or
 - (4) a prize linked savings program that:
 - (A) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~
 - (B) is:
 - (i) offered or conducted by a credit union organized or reorganized under United States law; and
 - (ii) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**
 - (C) is offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:**
 - (i) a national bank formed under 12 U.S.C. 21;**
 - (ii) a state member bank (as defined in 12 U.S.C. 1813);**
 - (iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or**
 - (iv) a savings association (as defined in 12 U.S.C. 1813);**
- if the prize linked savings program is conducted in the same manner as a prize linked savings program under IC 28-1-23.2.**

SECTION 48. IC 35-45-5-13, AS ADDED BY P.L.135-2014, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 13. This chapter does not apply to a prize linked savings program that:

- (1) is offered or conducted by an eligible financial institution under IC 28-1-23.2; ~~or~~
- (2) is:
 - (A) offered or conducted by a credit union organized or reorganized under United States law; and
 - (B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2; **or**
- (3) is:**
 - (A) offered or conducted by an insured depository institution (as defined in 12 U.S.C. 1813) that is:**



- (i) a national bank formed under 12 U.S.C. 21;
 - (ii) a state member bank (as defined in 12 U.S.C. 1813);
 - (iii) a state nonmember bank (as defined in 12 U.S.C. 1813); or
 - (iv) a savings association (as defined in 12 U.S.C. 1813);
- and

(B) conducted in the same manner as a prize linked savings program under IC 28-1-23.2."

Renumber all SECTIONS consecutively.

(Reference is to HB 1287 as printed January 30, 2015.)

RIECKEN

COMMITTEE REPORT

Madam President: The Senate Committee on Insurance and Financial Institutions, to which was referred House Bill No. 1287, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 13, between lines 34 and 35, begin a new paragraph and insert:

"SECTION 11. IC 24-4.5-1-108, AS AMENDED BY P.L.35-2010, SECTION 37, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 108. (1) This article prescribes maximum charges for all creditors, except lessors and those excluded (IC 24-4.5-1-202), extending consumer credit, including consumer credit sales (~~IC 24-4.5-1-301.5(8)~~); **(IC 24-4.5-1-301.5)**, consumer loans (~~IC 24-4.5-1-301.5(9)~~); **(IC 24-4.5-1-301.5)**, and consumer related sales and loans (IC 24-4.5-2-602 and IC 24-4.5-3-602), and displaces existing limitations on the powers of those creditors based on maximum charges.

(2) With respect to sellers of goods or services, small loan companies, licensed lenders, consumer and sales finance companies, industrial loan and investment companies, and commercial banks and trust companies, this article displaces existing limitations on their powers based solely on amount or duration of credit.

(3) Except as provided in subsection (1) and IC 24-4.6-1, this article does not displace limitations on powers of credit unions, savings banks, savings or building and loan associations, or other thrift institutions whether organized for the profit of shareholders or as mutual organizations.

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(4) Except as provided in subsections (1) and (2), this article does not displace:

(a) limitations on powers of depository institutions (IC 24-4.5-1-301.5) with respect to the amount of a loan to a single borrower, the ratio of a loan to the value of collateral, the duration of a loan that is a mortgage transaction, or other similar restrictions designed to protect deposits; or

(b) limitations on powers an organization is authorized to exercise under the laws of this state or the United States."

Page 15, line 42, strike "301.5(45)" and insert "**301.5**".

Page 16, line 1, strike "(a)" and insert "**(A)**".

Page 16, line 8, strike "(b)" and insert "**(B)**".

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 13. IC 24-4.5-1-301.5, AS AMENDED BY P.L.137-2014, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 301.5. In addition to definitions appearing in subsequent chapters in this article, the following definitions apply throughout this article:

(1) "Affiliate", with respect to any person subject to this article, means a person that, directly or indirectly, through one (1) or more intermediaries:

(a) controls;

(b) is controlled by; or

(c) is under common control with;

the person subject to this article.

(2) "Agreement" means the bargain of the parties in fact as found in their language or by implication from other circumstances, including course of dealing or usage of trade or course of performance.

(3) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing, or manufacture of agricultural products by a natural person who cultivates, plants, propagates, or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(4) "Average daily balance" means the sum of each of the daily balances in a billing cycle divided by the number of days in the billing cycle, and if the billing cycle is a month, the creditor may elect to treat the number of days in each billing cycle as thirty (30).

(5) "Civil justice funding company" means a person that enters into a civil justice funding transaction with a consumer. The term



does not include the following:

- (a) An immediate family member of the consumer.
- (b) A bank, lender, financing entity, or other special purpose entity:
 - (i) that provides financing to the person; or
 - (ii) to which the person grants a security interest or transfers rights or interest in a civil justice funding transaction.
- (c) An attorney or accountant who provides services to the consumer.

(6) "Civil justice funding transaction" means a transaction in which a:

- (a) person purchases; and
- (b) consumer assigns to the person described in paragraph (a);

a contingent right to receive an amount of the potential proceeds of a settlement, judgment, award, or verdict obtained in the consumer's legal claim.

~~(5)~~ (7) "Closing costs" with respect to a subordinate lien mortgage transaction includes:

- (a) fees or premiums for title examination, title insurance, or similar purposes, including surveys;
- (b) fees for preparation of a deed, settlement statement, or other documents;
- (c) escrows for future payments of taxes and insurance;
- (d) fees for notarizing deeds and other documents;
- (e) appraisal fees; and
- (f) fees for credit reports.

~~(6)~~ (8) "Conspicuous" refers to a term or clause when it is so written that a reasonable person against whom it is to operate ought to have noticed it.

~~(7)~~ (9) "Consumer credit" means credit offered or extended to a consumer primarily for a personal, family, or household purpose.

~~(8)~~ (10) "Consumer credit sale" is a sale of goods, services, or an interest in land in which:

- (a) credit is granted by a person who regularly engages as a seller in credit transactions of the same kind;
- (b) the buyer is a person other than an organization;
- (c) the goods, services, or interest in land are purchased primarily for a personal, family, or household purpose;
- (d) either the debt is payable in installments or a credit service charge is made; and



- (e) with respect to a sale of goods or services, either:
 - (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars (\$53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 - (ii) the debt is secured by personal property used or expected to be used as the principal dwelling of the buyer.

Unless the sale is made subject to this article by agreement (IC 24-4.5-2-601), "consumer credit sale" does not include a sale in which the seller allows the buyer to purchase goods or services pursuant to a lender credit card or similar arrangement or except as provided with respect to disclosure (IC 24-4.5-2-301), debtors' remedies (IC 24-4.5-5-201), providing payoff amounts (IC 24-4.5-2-209), and powers and functions of the department (IC 24-4.5-6) a sale of an interest in land which is a first lien mortgage transaction.

~~(9)~~ **(11)** "Consumer loan" means a loan made by a person regularly engaged in the business of making loans in which:

- (a) the debtor is a person other than an organization;
- (b) the debt is primarily for a personal, family, or household purpose;
- (c) either the debt is payable in installments or a loan finance charge is made; and
- (d) either:
 - (i) the amount of credit extended, the written credit limit, or the initial advance does not exceed fifty-three thousand five hundred dollars (\$53,500) or another amount as adjusted in accordance with the annual adjustment of the exempt threshold amount specified in Regulation Z (12 CFR 226.3 or 12 CFR 1026.3(b), as applicable); or
 - (ii) the debt is secured by an interest in land or by personal property used or expected to be used as the principal dwelling of the debtor.

The term includes a civil justice funding transaction. Except as described in IC 24-4.5-3-105, the term does not include a first lien mortgage transaction.

~~(10)~~ **(12)** "Credit" means the right granted by a creditor to a debtor to defer payment of debt or to incur debt and defer its payment.

~~(11)~~ **(13)** "Creditor" means a person:

- (a) who regularly engages in the extension of consumer credit that



is subject to a credit service charge or loan finance charge, as applicable, or is payable by written agreement in more than four (4) installments (not including a down payment); and
 (b) to whom the obligation is initially payable, either on the face of the note or contract, or by agreement when there is not a note or contract.

~~(12)~~ **(14)** "Depository institution" has the meaning set forth in the Federal Deposit Insurance Act (12 U.S.C. 1813(c)) and includes any credit union.

~~(13)~~ **(15)** "Director" means the director of the department of financial institutions or the director's designee.

~~(14)~~ **(16)** "Dwelling" means a residential structure that contains one (1) to four (4) units, regardless of whether the structure is attached to real property. The term includes an individual:

- (a) condominium unit;
- (b) cooperative unit;
- (c) mobile home; or
- (d) trailer;

that is used as a residence.

~~(15)~~ **(17)** "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments under a pension or retirement program.

~~(16)~~ **(18)** "Employee" means an individual who is paid wages or other compensation by an employer required under federal income tax law to file Form W-2 on behalf of the individual.

~~(17)~~ **(19)** "Federal banking agencies" means the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Office of Thrift Supervision, the National Credit Union Administration, and the Federal Deposit Insurance Corporation.

~~(18)~~ **(20)** "First lien mortgage transaction" means:

- (a) a consumer loan; or
- (b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a first lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

~~(19)~~ **(21)** "Immediate family member" means a spouse, child, sibling, parent, grandparent, or grandchild. The term includes stepparents, stepchildren, stepsiblings, and adoptive relationships.



~~(20)~~ **(22)** "Individual" means a natural person.

~~(21)~~ **(23)** "Lender credit card or similar arrangement" means an arrangement or loan agreement, other than a seller credit card, pursuant to which a lender gives a debtor the privilege of using a credit card, letter of credit, or other credit confirmation or identification in transactions out of which debt arises:

- (a) by the lender's honoring a draft or similar order for the payment of money drawn or accepted by the debtor;
- (b) by the lender's payment or agreement to pay the debtor's obligations; or
- (c) by the lender's purchase from the obligee of the debtor's obligations.

~~(22)~~ **(24)** "Licensee" means a person licensed as a creditor under this article.

~~(23)~~ **(25)** "Loan brokerage business" means any activity in which a person, in return for any consideration from any source, procures, attempts to procure, or assists in procuring, a mortgage transaction from a third party or any other person, whether or not the person seeking the mortgage transaction actually obtains the mortgage transaction.

~~(24)~~ **(26)** "Loan processor or underwriter" means an individual who performs clerical or support duties as an employee at the direction of, and subject to the supervision and instruction of, a person licensed or exempt from licensing under this article. For purposes of this subsection, the term "clerical or support duties" may include, after the receipt of an application, the following:

- (a) The receipt, collection, distribution, and analysis of information common for the processing or underwriting of a mortgage transaction.
- (b) The communication with a consumer to obtain the information necessary for the processing or underwriting of a loan, to the extent that the communication does not include:
 - (i) offering or negotiating loan rates or terms; or
 - (ii) counseling consumers about mortgage transaction rates or terms.

An individual engaging solely in loan processor or underwriter activities shall not represent to the public through advertising or other means of communicating or providing information, including the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

~~(25)~~ **(27)** "Mortgage loan originator" means an individual who, for



compensation or gain, or in the expectation of compensation or gain, regularly engages in taking a mortgage transaction application or in offering or negotiating the terms of a mortgage transaction that either is made under this article or under IC 24-4.4 or is made by an employee of a person licensed or exempt from licensing under this article or under IC 24-4.4, while the employee is engaging in the loan brokerage business. The term does not include the following:

(a) An individual engaged solely as a loan processor or underwriter as long as the individual works exclusively as an employee of a person licensed or exempt from licensing under this article.

(b) Unless the person or entity is compensated by:

(i) a creditor;

(ii) a loan broker;

(iii) another mortgage loan originator; or

(iv) any agent of the creditor, loan broker, or other mortgage loan originator described in items (i) through (iii);

a person or entity that only performs real estate brokerage activities and is licensed or registered in accordance with applicable state law.

(c) A person solely involved in extensions of credit relating to timeshare plans (as defined in 11 U.S.C. 101(53D)).

~~(26)~~ **(28)** "Mortgage servicer" means the last person to whom a mortgagor or the mortgagor's successor in interest has been instructed by a mortgagee to send payments on a loan secured by a mortgage.

~~(27)~~ **(29)** "Mortgage transaction" means:

(a) a consumer loan; or

(b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

~~(28)~~ **(30)** "Nationwide Mortgage Licensing System and Registry", or "NMLSR", means a mortgage licensing system developed and maintained by the Conference of State Bank Supervisors and the American Association of Residential Mortgage Regulators for the licensing and registration of creditors and mortgage loan originators.

~~(29)~~ **(31)** "Nontraditional mortgage product" means any mortgage product other than a thirty (30) year fixed rate mortgage.

~~(30)~~ **(32)** "Official fees" means:

(a) fees and charges prescribed by law which actually are or will



be paid to public officials for determining the existence of or for perfecting, releasing, or satisfying a security interest related to a consumer credit sale, consumer lease, or consumer loan; or
 (b) premiums payable for insurance in lieu of perfecting a security interest otherwise required by the creditor in connection with the sale, lease, or loan, if the premium does not exceed the fees and charges described in paragraph (a) that would otherwise be payable.

~~(31)~~ **(33)** "Organization" means a corporation, a government or governmental subdivision, an agency, a trust, an estate, a partnership, a limited liability company, a cooperative, an association, a joint venture, an unincorporated organization, or any other entity, however organized.

~~(32)~~ **(34)** "Payable in installments" means that payment is required or permitted by written agreement to be made in more than four (4) installments not including a down payment.

~~(33)~~ **(35)** "Person" includes an individual or an organization.

~~(34)~~ **(36)** "Person related to" with respect to an individual means:

- (a) the spouse of the individual;
- (b) a brother, brother-in-law, sister, or sister-in-law of the individual;
- (c) an ancestor or lineal descendants of the individual or the individual's spouse; and
- (d) any other relative, by blood or marriage, of the individual or the individual's spouse who shares the same home with the individual.

~~(35)~~ **(37)** "Person related to" with respect to an organization means:

- (a) a person directly or indirectly controlling, controlled by, or under common control with the organization;
- (b) a director, an executive officer, or a manager of the organization or a person performing similar functions with respect to the organization or to a person related to the organization;
- (c) the spouse of a person related to the organization; and
- (d) a relative by blood or marriage of a person related to the organization who shares the same home with the person.

~~(36)~~ **(38)** "Presumed" or "presumption" means that the trier of fact must find the existence of the fact presumed, unless and until evidence is introduced that would support a finding of its nonexistence.

~~(37)~~ **(39)** "Real estate brokerage activity" means any activity that involves offering or providing real estate brokerage services to the public, including the following:

- (a) Acting as a real estate agent or real estate broker for a buyer,



seller, lessor, or lessee of real property.

(b) Bringing together parties interested in the sale, purchase, lease, rental, or exchange of real property.

(c) Negotiating, on behalf of any party, any part of a contract relating to the sale, purchase, lease, rental, or exchange of real property (other than in connection with providing financing with respect to the sale, purchase, lease, rental, or exchange of real property).

(d) Engaging in any activity for which a person is required to be registered or licensed as a real estate agent or real estate broker under any applicable law.

(e) Offering to engage in any activity, or act in any capacity, described in this subsection.

~~(38)~~ **(40)** "Registered mortgage loan originator" means any individual who:

(a) meets the definition of mortgage loan originator and is an employee of:

(i) a depository institution;

(ii) a subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency; or

(iii) an institution regulated by the Farm Credit Administration; and

(b) is registered with, and maintains a unique identifier through, the NMLSR.

~~(39)~~ **(41)** "Regularly engaged", with respect to a person who extends consumer credit, refers to a person who:

(a) extended consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the preceding calendar year; or

(b) extends or will extend consumer credit:

(i) more than twenty-five (25) times; or

(ii) more than five (5) times for a mortgage transaction secured by a dwelling;

in the current calendar year, if the person did not meet the numerical standards described in subdivision (a) in the preceding calendar year.

~~(40)~~ **(42)** "Residential real estate" means any real property that is located in Indiana and on which there is located or intended to be constructed a dwelling.

~~(41)~~ **(43)** "Seller credit card" means an arrangement that gives to a



buyer or lessee the privilege of using a credit card, letter of credit, or other credit confirmation or identification for the purpose of purchasing or leasing goods or services from that person, a person related to that person, or from that person and any other person. The term includes a card that is issued by a person, that is in the name of the seller, and that can be used by the buyer or lessee only for purchases or leases at locations of the named seller.

~~(42)~~ **(44)** "Subordinate lien mortgage transaction" means:

- (a) a consumer loan; or
- (b) a consumer credit sale;

that is or will be used by the debtor primarily for personal, family, or household purposes and that is secured by a mortgage or a land contract (or another consensual security interest equivalent to a mortgage or a land contract) that constitutes a subordinate lien on a dwelling or on residential real estate upon which a dwelling is constructed or intended to be constructed.

~~(43)~~ **(45)** "Unique identifier" means a number or other identifier assigned by protocols established by the NMLSR.

~~(44)~~ **(46)** "Land contract" means a contract for the sale of real estate in which the seller of the real estate retains legal title to the real estate until the total contract price is paid by the buyer.

~~(45)~~ **(47)** "Bona fide nonprofit organization" means an organization that does the following, as determined by the director under criteria established by the director:

- (a) Maintains tax exempt status under Section 501(c)(3) of the Internal Revenue Code.
- (b) Promotes affordable housing or provides home ownership education or similar services.
- (c) Conducts the organization's activities in a manner that serves public or charitable purposes.
- (d) Receives funding and revenue and charges fees in a manner that does not encourage the organization or the organization's employees to act other than in the best interests of the organization's clients.
- (e) Compensates the organization's employees in a manner that does not encourage employees to act other than in the best interests of the organization's clients.
- (f) Provides to, or identifies for, debtors mortgage transactions with terms that are favorable to the debtor (as described in section 202(b)(15) of this chapter) and comparable to mortgage transactions and housing assistance provided under government housing assistance programs.



(g) Maintains certification by the United States Department of Housing and Urban Development or employs counselors who are certified by the Indiana housing and community development authority.

SECTION 14. IC 24-4.5-2-103, AS AMENDED BY P.L.89-2011, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 103. Definitions — The following definitions apply to this article and appear in this article as follows:

"Amount financed"	Section 111 of this chapter
"Cash price"	Section 110 of this chapter
"Consumer credit sale"	IC 24-4.5-1-301.5(8) IC 24-4.5-1-301.5
"Consumer lease"	Section 106 of this chapter
"Consumer related sale"	Section 602 of this chapter
"Credit service charge"	Section 109 of this chapter
"Goods"	Section 105(1) of this chapter
"Home solicitation sale"	Section 501 of this chapter
"Merchandise certificate"	Section 105(2) of this chapter
"Precomputed"	Section 105(7) of this chapter
"Revolving charge account"	Section 108 of this chapter
"Sale of goods"	Section 105(4) of this chapter
"Sale of an interest in land"	Section 105(6) of this chapter
"Sale of services"	Section 105(5) of this chapter
"Seller"	Section 107 of this chapter
"Services"	Section 105(3) of this chapter".

Page 16, between lines 40 and 41, begin a new paragraph and insert:

"SECTION 16. IC 24-4.5-2-301, AS AMENDED BY P.L.35-2010, SECTION 45, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 301. (1) For purposes of this section, "consumer credit sale" includes the sale of an interest in land which is a first lien mortgage transaction if the sale is otherwise a consumer credit sale (~~IC 24-4.5-1-301.5(8)~~): **(IC 24-4.5-1-301.5)**.

(2) The seller shall disclose to the buyer to whom credit is extended with respect to a consumer credit sale, and the lessor shall disclose to the lessee with respect to a consumer lease, the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer credit sale if the transaction is exempt from the Federal Consumer Credit Protection Act."

Page 17, between lines 26 and 27, begin a new paragraph and insert:

"SECTION 18. IC 24-4.5-3-106 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 106. Definition: "Loan"



— "Loan" includes:

(1) the creation of debt by the lender's payment of or agreement to pay money to the debtor or to a third party for the account of the debtor;

(2) the creation of debt by a credit to an account with the lender upon which the debtor is entitled to draw immediately;

(3) the creation of debt pursuant to a lender credit card or similar arrangement; ~~and~~

(4) the forbearance of debt arising from a loan; ~~and~~

(5) the creation of a debt under a civil justice funding transaction."

Page 18, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 20. IC 24-4.5-3-301, AS AMENDED BY P.L.35-2010, SECTION 50, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 301. (1) For the purposes of this section, "consumer loan" includes a loan that is a first lien mortgage transaction if the loan is otherwise a consumer loan ~~(IC 24-4.5-1-301.5(9))~~. **(IC 24-4.5-1-301.5).**

(2) The lender shall disclose to the debtor to whom credit is extended with respect to a consumer loan the information required by the Federal Consumer Credit Protection Act.

(3) For purposes of subsection (2), disclosures shall not be required on a consumer loan if the transaction is exempt from the Federal Consumer Credit Protection Act."

Page 24, between lines 16 and 17, begin a new paragraph and insert:

"SECTION 27. IC 24-4.5-4-102, AS AMENDED BY P.L.35-2010, SECTION 61, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 102. (1) Except as provided in subsection (2), this chapter applies to insurance provided or to be provided in relation to a consumer credit sale ~~(IC 24-4.5-1-301.5(8))~~, **(IC 24-4.5-1-301.5)**, a consumer lease (IC 24-4.5-2-106), or a consumer loan ~~(IC 24-4.5-1-301.5(9))~~. **(IC 24-4.5-1-301.5).**

(2) The provision on cancellation by a creditor (IC 24-4.5-4-304) applies to loans the primary purpose of which is the financing of insurance. No other provision of this chapter applies to insurance so financed.

(3) This chapter supplements and does not repeal IC 27-8-4 (the credit insurance act). The provisions of this article concerning administrative controls, liabilities, and penalties do not apply to persons acting as insurers, and the similar provisions of IC 27-8-4 do not apply to creditors and debtors."

Page 28, line 21, delete "(1)" and insert "(a)".



Page 28, line 23, delete "(2)" and insert "(b)".

Page 28, line 30, delete "(1)" and insert "(a)".

Page 28, line 31, delete "(2)" and insert "(b)".

Page 29, line 15, delete "IC 24-4.5-1-301.5(39)," and insert "**IC 24-4.5-1-301.5,**".

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to HB 1287 as reprinted February 4, 2015.)

HOLDMAN, Chairperson

Committee Vote: Yeas 10, Nays 0.

SENATE MOTION

Madam President: I move that Engrossed House Bill 1287 be amended to read as follows:

Page 42, between lines 8 and 9, begin a new paragraph and insert:

"SECTION 33. IC 24-7-5-11, AS AMENDED BY P.L.137-2014, SECTION 19, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2015]: Sec. 11. (a) In addition to the other charges permitted by this chapter, **for a period during which the lessor relieves the lessee of liability under a liability waiver**, a lessor and a lessee may contract for a liability waiver fee in the following amounts:

(1) In the case of a rental purchase agreement with weekly or biweekly renewal dates, the liability waiver fee may not exceed the greater of:

(A) ten percent (10%) of ~~a the~~ periodic lease payment ~~due~~; **disclosed under IC 24-7-3-3(2);** or

(B) two dollars (\$2).

(2) In the case of a rental purchase agreement with monthly renewal dates, the liability waiver fee may not exceed the greater of:

(A) ten percent (10%) of ~~a the~~ periodic lease payment ~~due~~; **disclosed under IC 24-7-3-3(2);** or

(B) five dollars (\$5).

(b) The selling or offering for sale of a liability damage waiver under this section is subject to the following prohibitions and requirements:

(1) A lessor may not sell or offer to sell a liability damage waiver unless all restrictions, conditions, and exclusions are:



- (A) printed in the rental purchase agreement, or in a separate agreement, in 8 point type or larger; or
 - (B) written in ink or typewritten in or on the face of the rental purchase agreement in a blank space provided therefor.
- (2) The liability damage waiver may exclude only loss or damage to the property that is the subject of the rental purchase agreement caused by moisture, scratches, mysterious disappearance, vandalism, abandonment of the property, or any other damage intentionally caused by the lessee or that results from the lessee's willful or wanton misconduct.
- (3) The liability damage waiver agreement must include a statement of the total charge for the liability damage waiver. The liability damage waiver agreement must display in 8 point boldface type the following:

"NOTICE: THIS CONTRACT OFFERS, FOR AN ADDITIONAL CHARGE, A LIABILITY DAMAGE WAIVER TO COVER YOUR RESPONSIBILITY FOR DAMAGE TO THE PROPERTY. BEFORE DECIDING WHETHER TO PURCHASE THE LIABILITY DAMAGE WAIVER, YOU MAY WISH TO DETERMINE WHETHER YOUR OWN HOMEOWNERS OR CASUALTY INSURANCE AFFORDS YOU COVERAGE FOR DAMAGE TO THE RENTAL PROPERTY, AND THE AMOUNT OF THE DEDUCTIBLE UNDER YOUR OWN INSURANCE COVERAGE. THE PURCHASE OF THIS LIABILITY DAMAGE WAIVER IS NOT MANDATORY AND MAY BE DECLINED."

- (4) The restrictions, conditions, and exclusions of the liability damage waiver must be disclosed on the agreement or on a separate agreement, sheet, or handout given to the lessee before entering into the rental purchase agreement. The separate contract, sheet, or handout must be signed or otherwise acknowledged by the lessee as being received before entering into the rental purchase agreement.
- (5) The lessor shall keep and maintain records as prescribed by the director of the department. The director of the department may inspect the records and determine whether the rates charged under this section are fair and reasonable."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1287 as printed March 20, 2015.)

HOLDMAN



SENATE MOTION

Madam President: I move that Engrossed House Bill 1287 be amended to read as follows:

Page 13, delete lines 35 through 42.

Page 14, delete lines 1 through 21.

Page 17, delete lines 29 through 42.

Delete pages 18 through 26.

Page 27, delete lines 1 through 11.

Page 27, delete lines 40 through 42.

Page 28, delete lines 1 through 10.

Page 28, delete lines 37 through 42.

Page 29, delete lines 1 through 6.

Page 35, delete lines 13 through 28.

Renumber all SECTIONS consecutively.

(Reference is to EHB 1287 as printed March 20, 2015.)

HEAD

